

EXHIBIT C

10/18/2017

DONALD NEUFELD
MARTIN JONATHAN BATALLA VIDAL v ELAINE C. DUKE

1 IN THE UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 MARTIN JONATHAN BATALLA)
5 VIDAL, et al.,)
6 Plaintiffs,)
7 v)
8 ELAINE C. DUKE, Acting)
9 Secretary Department of)
10 Homeland Security)
11 JEFFERSON BEAUREGARD)
12 SESSION III, Attorney)
13 General of the United)
14 States, and DONALD J TRUMP,)
15 President of the UNITED)
16 STATES,)
17 Defendants.)
18 -----x

19 Case No.
20 1:16-CV-04756 (NGG) (JO)

Deposition of DONALD NEUFELD

Washington, DC

Wednesday, October 18, 2017

9:16 a.m.

Job No.: 37566

Pages: 1 - 211

Reported by: Donna Marie Lewis, RPR, CSR (HI)

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<p style="text-align: right;">Page 2</p> <p>1 IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p>2</p> <p>3 -----x</p> <p>4 MARTIN JONATHAN BATALLA) VIDAL, et al.,)</p> <p>5) Plaintiffs,)</p> <p>6) Case No. v) 1:16-CV-04756 (NGG) (JO)</p> <p>7) ELAINE C. DUKE, Acting) Secretary Department of) Homeland Security) JEFFERSON BEAUREGARD) SESSION III, Attorney) General of the United) States, and DONALD J TRUMP,) President of the UNITED) STATES,)</p> <p>12) Defendants.)</p> <p>13) -----x</p> <p>14</p> <p>15 Deposition of DONALD NEUFELD, held at US 16 Conference of Mayors, 1620 I Street, NW, 17 Washington 20006 pursuant to Notice, before Donna 18 Marie Lewis, Registered Professional Reporter and 19 Notary Public of and for the District of Columbia.</p> <p>20 21 22</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES: (Continued) 2 ON BEHALF OF PLAINTIFFS: (Continued)</p> <p>3</p> <p>4 MAKE THE ROAD NEW YORK</p> <p>5 BY: CARLOS VARGAS, ESQUIRE SCOTT FOLETTA, ESQUIRE CAROLINA FUNG FENG, ESQUIRE</p> <p>6 301 Grove Street Brooklyn, NY 11237 7 Telephone: 718 727-1222 929 244-3456 917 251-1373</p> <p>8 Emails: carlos.vargas@maketheroadny.org scott.foletta@maketheroadny.org carolina.fungfen@maketheroadny.org</p> <p>9</p> <p>10 NEW YORK ATTORNEY GENERAL'S OFFICE 11 BY: SANIA W. KHAN, ESQUIRE 12 120 Broadway New York, NY 10271 13 Telephone: (212) 416-8534 Email: sania.khan@ag.ny.gov</p> <p>14</p> <p>15 STATE OF CALIFORNIA, DEPT OF JUSTICE 16 OFFICE OF THE ATTORNEY GENERAL BUREAU OF CHILDREN'S JUSTICE 17 BY: MICHAEL L. NEWMAN, DIRECTOR 18 300 S. Spring Street Suite 1702 19 Los Angeles, CA 90013 Telephone: 213 897-2642 Email: michael.newman@doj.ca.gov</p> <p>20 21 22</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S 2 ON BEHALF OF PLAINTIFFS:</p> <p>3 JEROME N. FRANK LEGAL SERVICES ORGANIZATION AT YALE LAW SCHOOL 4 BY: DAVID CHEN, LAW STUDENT INTERN MICHAEL WISHNIE, ESQUIRE 5 VICTORIA ROECK, LAW STUDENT INTERN</p> <p>Yale Law School 127 Wall Street New Haven CT 06511 Telephone: (203) 432-4800 Email: michael.wishnie@yale.edu</p> <p>8</p> <p>9 NATIONAL IMMIGRATION LAW CENTER BY: JOSHUA A. ROSENTHAL, ESQUIRE 10 KAREN C. TUMLIN, ESQUIRE P.O. Box 70067 11 Los Angeles, CA 90070 Telephone: (213) 639-3900</p> <p>12</p> <p>13 GIBSON, DUNN & CRUTCHER, LLP BY: ANDREW WILHELM, ESQUIRE 14 1050 Connecticut Avenue, NW Washington, D C 20036 Telephone: 202 887-3556 Email: awilhelm@gibsondunn.com</p> <p>16</p> <p>17 COVINGTON & BURLING, LLP 18 BY: IVANO M VENTRESCA, ESQUIRE Telephone: 202 662-5203 Email: iventresca@cov.com</p> <p>19 20 21 22</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES: (Continued) 2</p> <p>3 ON BEHALF OF DEFENDANTS:</p> <p>4 UNITED STATES DEPARTMENT OF JUSTICE BY: KATE BAILEY, TRIAL ATTORNEY</p> <p>5</p> <p>6 U S DEPARTMENT OF HOMELAND SECURITY U S CITIZENSHIP AND IMMIGRATION SERVICES</p> <p>7 BY: EVAN R. FRANKE, ESQUIRE 20 MASSACHUSETTS AVENUE, NW, 8 Suite 4210 Washington, DC 20529-2120 9 Telephone: (202) 272-1446 Facsimile: (202) 272-1405 Email: Evan.Franke@dhs.gov</p> <p>10</p> <p>11</p> <p>12 U S DEPARTMENT OF HOMELAND SECURITY OFFICE OF THE GENERAL COUNSEL 13 BY: REID COX, ATTORNEY-ADVISOR</p> <p>14</p> <p>15 U S DEPARTMENT OF JUSTICE BY: JOHN TYLER, ESQUIRE</p> <p>16 17 18 19 20 21 22</p>

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<p style="text-align: right;">Page 6</p> <p style="text-align: center;">I N D E X</p> <p>1 WITNESS:</p> <p>2 DONALD NEUFELD</p> <p>3 EXAMINATION BY: PAGE</p> <p>4 Mr. Chen 11</p> <p>5 Ms. Khan 156</p> <p>6 Mr. Ventresca 171</p> <p>7 Mr. Newman 190</p> <p>8</p> <p>9</p> <p>10 E X H I B I T S</p> <p>11 NEUFELD</p> <p>12 EXHIBITS: DESCRIPTION PAGE</p> <p>13 No. 38 Defendant's Objections and Responses 57</p> <p>14 No. 39 Declaration of Donald Neufeld 171</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 8</p> <p>1 Veritext Legal Solutions and I'm the videographer.</p> <p>2 The court reporter is Donna Lewis from the firm</p> <p>3 Olender Reporting.</p> <p>4 I'm not authorized to administer an</p> <p>5 oath. I'm not related to any party in this</p> <p>6 action, nor am I financially interested in the</p> <p>7 outcome.</p> <p>8 Counsel and all present in the room and</p> <p>9 everyone attending remotely will now state their</p> <p>10 appearances and affiliations for the record. If</p> <p>11 there are any objections to the proceedings,</p> <p>12 please state them at the time of your appearance</p> <p>13 beginning with noticing attorney.</p> <p>14 MR CHEN: David Chen, law student intern</p> <p>15 with the Jerome N. Frank Legal Services</p> <p>16 Organization at Yale Law School.</p> <p>17 MR. WISHNIE: Michael Wishnie, Jerome N.</p> <p>18 Frank Legal Services Organization, Yale Law</p> <p>19 School.</p> <p>20 MS. ROECK: Victoria Roeck, law student</p> <p>21 intern with Jerome N. Frank Legal Services</p> <p>22 Organization at Yale Law School.</p>
<p style="text-align: right;">Page 7</p> <p style="text-align: center;">P-R-O-C-E-E-D-I-N-G-S</p> <p>1 THE VIDEOGRAPHER: Good morning. We are</p> <p>2 going on the record at 9:16 a.m. on October 18,</p> <p>3 2017. Please note that the microphones are</p> <p>4 sensitive. They pick up whispering and private</p> <p>5 conversations and cellular interference. Please</p> <p>6 turn off all cell phones or place them away from</p> <p>7 the microphones as they can interfere with the</p> <p>8 deposition audio. The audio/video recording will</p> <p>9 continue to take place unless all parties agree to</p> <p>10 go off the record.</p> <p>11 This is media unit 1 of the video</p> <p>12 recorded deposition of Donald Neufeld, taken by</p> <p>13 counsel for the plaintiff in the matter of Martin</p> <p>14 Jonathan Batalla Vidal, et al., v. Elaine C. Duke,</p> <p>15 et al., filed in the United States District Court</p> <p>16 for the Eastern District of New York, Case</p> <p>17 number 1:16-CV-04756 (NGG) (JO).</p> <p>18 The deposition is being held at</p> <p>19 United States Conference of Mayors located at 1620</p> <p>20 I Street, Northwest, 4th floor, Washington, D C.</p> <p>21 My name is Gene Aronov. I'm with</p> <p>22</p>	<p style="text-align: right;">Page 9</p> <p>1 MR. ROSENTHAL: Joshua Rosenthal,</p> <p>2 National Immigration Law Center.</p> <p>3 MS. TUMLIN: Karen Tumlin, National</p> <p>4 Immigration Law Center --(mumbling)</p> <p>5 MR. WILHELM: Andrew Wilhelm, Gibson,</p> <p>6 Dunn & Crutcher for the Garcia matter.</p> <p>7 MR. VENTRESCA: Ivano Ventresca,</p> <p>8 Covington & Burling for the University of</p> <p>9 California and Janet Napolitano.</p> <p>10 MR. VARGAS: Carlos Vargas -- plaintiff.</p> <p>11 THE COURT REPORTER: I can't hear you.</p> <p>12 MR. VARGAS: Carlos Vargas, plaintiff.</p> <p>13 MR. FOLETTA: Scott Foletta, Make the</p> <p>14 Road, New York.</p> <p>15 MS. FUNG FENG: Carolina Fung Feng.</p> <p>16 MS. KHAN: Sania Khan for the New York</p> <p>17 Attorney General's Office on behalf of the United</p> <p>18 States, the New York division.</p> <p>19 MR. NEWMAN: Michael Newman of the</p> <p>20 California Department of Justice on behalf of</p> <p>21 plaintiff states in the California versus DHS</p> <p>22 matter.</p>

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<p style="text-align: right;">Page 10</p> <p>1 MS. BAILEY: Kate Bailey, United States</p> <p>2 Department of Justice, on behalf of defendants.</p> <p>3 MR. FRANKE: Evan Franke, United States</p> <p>4 Citizenship and Immigration Services on behalf of</p> <p>5 defendants.</p> <p>6 MR. COX: Reid Cox, DHS, Office of the</p> <p>7 General Counsel on behalf of defendants.</p> <p>8 MR. TYLER: John Tyler, United States</p> <p>9 Department of Justice on behalf of defendants.</p> <p>10 THE WITNESS: Donald Neufeld, United</p> <p>11 States Citizenship and Immigration Services, and</p> <p>12 I'm the deponent.</p> <p>13 THE VIDEOGRAPHER: Would the court</p> <p>14 reporter please swear in the witness.</p> <p>15 Whereupon,</p> <p>16 DONALD NEUFELD</p> <p>17 after having been first duly sworn by the Notary</p> <p>18 Public was examined and testified as follows:</p> <p>19 THE VIDEOGRAPHER: You may proceed.</p> <p>20 MR CHEN: Good morning, Mr. Neufeld.</p> <p>21 Thank you for being here. My name is David Chen.</p> <p>22 I'm the law student intern of the Jerome N. Frank</p>	<p style="text-align: right;">Page 12</p> <p>1 understand please let me know. If you answer the</p> <p>2 question I will assume that you've understood the</p> <p>3 question. Do you understand?</p> <p>4 A Yes.</p> <p>5 Q In order for the court reporter to take</p> <p>6 an accurate transcript of today's deposition I ask</p> <p>7 that you -- that all of your responses be made</p> <p>8 verbally. For example, please say yes instead of</p> <p>9 nodding your head. Do you understand?</p> <p>10 A Yes.</p> <p>11 Q And your attorney may make an objection</p> <p>12 to a question but we will not stop the deposition</p> <p>13 to address the objections. You are still required</p> <p>14 to answer the question unless your attorney</p> <p>15 instructs you not to answer. Do you understand?</p> <p>16 A Yes.</p> <p>17 Q If you must consult your attorney I ask</p> <p>18 that you first answer any pending questions unless</p> <p>19 you need to talk to your attorney about a matter</p> <p>20 of privilege. Do you understand?</p> <p>21 A Yes.</p> <p>22 Q And, Mr. Neufeld, are you taking any</p>
<p style="text-align: right;">Page 11</p> <p>1 Legal Services Organization at Yale Law School and</p> <p>2 I'll be taking your deposition today.</p> <p>3 Before we begin we would like to</p> <p>4 establish for the record that counsel has agreed</p> <p>5 to the following stipulations; First, does counsel</p> <p>6 stipulate that all objections except as to form</p> <p>7 are preserved?</p> <p>8 MR. TYLER: Yes.</p> <p>9 MR CHEN: Second, does counsel stipulate</p> <p>10 and waive the right to review and sign the</p> <p>11 transcript of the deposition?</p> <p>12 MR. TYLER: We do not.</p> <p>13 MR CHEN: Okay. Noted.</p> <p>14 EXAMINATION ON BEHALF OF PLAINTIFF</p> <p>15 BY MR CHEN:</p> <p>16 Q Mr. Neufeld, have you ever taken a</p> <p>17 deposition before?</p> <p>18 A Yes.</p> <p>19 Q Well, just to remind you let me go over</p> <p>20 some of the ground rules before getting to the</p> <p>21 questions. First, I will be asking you the</p> <p>22 questions. If there is something that you do not</p>	<p style="text-align: right;">Page 13</p> <p>1 medications or drugs of any kind that might make</p> <p>2 it difficult for you to understand and answer my</p> <p>3 questions today?</p> <p>4 A No.</p> <p>5 Q Do you suffer from any conditions that</p> <p>6 would impair your ability to provide accurate and</p> <p>7 complete testimony?</p> <p>8 A No.</p> <p>9 Q Is there any other reason you cannot</p> <p>10 give full and complete testimony today?</p> <p>11 A No.</p> <p>12 Q Mr. Neufeld, did you do anything to</p> <p>13 prepare for today's deposition?</p> <p>14 A Other than meeting with counsel</p> <p>15 yesterday, no.</p> <p>16 Q Did you speak with -- did you speak with</p> <p>17 anyone besides counsel?</p> <p>18 A No.</p> <p>19 Q Did you review any documents in</p> <p>20 preparation for today's deposition?</p> <p>21 A No.</p> <p>22 Q Have you brought any materials with you</p>

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<p style="text-align: right;">Page 14</p> <p>1 to assist with your testimony today?</p> <p>2 A No.</p> <p>3 Q How long did you speak with counsel in</p> <p>4 preparation for today's deposition?</p> <p>5 A I didn't time it, but it was probably</p> <p>6 about an hour, hour and a half.</p> <p>7 Q And when did you speak with counsel?</p> <p>8 A Yesterday afternoon.</p> <p>9 Q In total how long have you spent</p> <p>10 preparing to be deposed?</p> <p>11 A An hour, an hour and a half.</p> <p>12 Q Other than what we have discussed have</p> <p>13 you done anything else to prepare for today's</p> <p>14 deposition?</p> <p>15 A No.</p> <p>16 Q When you were deposed previously,</p> <p>17 Mr. Neufeld, in what case were you deposed?</p> <p>18 A I don't recall. A few years ago.</p> <p>19 Q When? Do you know about when you were</p> <p>20 last deposed?</p> <p>21 A Several years ago, I don't recall the</p> <p>22 specific date.</p>	<p style="text-align: right;">Page 16</p> <p>1 Department of Homeland Security. What is your</p> <p>2 current position at the Department of Homeland</p> <p>3 Security?</p> <p>4 A I'm the associate director for Service</p> <p>5 Center Operations.</p> <p>6 Q From this point forward I will refer to</p> <p>7 Service Center Operations as SCOPS, if that is all</p> <p>8 right? And for the court reporter, that's spelled</p> <p>9 S-C-O-P-S.</p> <p>10 So is SCOPS within USCIS, Mr. Neufeld?</p> <p>11 A Yes.</p> <p>12 Q And USCIS is a component within DHS?</p> <p>13 A Yes.</p> <p>14 Q When did you begin your role as</p> <p>15 associate director of SCOPS?</p> <p>16 A January or February of 2010.</p> <p>17 Q Have you held any other positions at</p> <p>18 DHS?</p> <p>19 A Yes.</p> <p>20 Q What were those positions?</p> <p>21 A I was the deputy associate director for</p> <p>22 domestic operations.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q Do you know generally around what time</p> <p>2 that was?</p> <p>3 A No.</p> <p>4 Q Do you recall in what matter it was</p> <p>5 concerning that you were deposed?</p> <p>6 A I do not.</p> <p>7 Q Do you remember what court it was in</p> <p>8 which you were deposed?</p> <p>9 A No.</p> <p>10 Q And what was -- do you remember at all</p> <p>11 what the nature of the case was?</p> <p>12 A No.</p> <p>13 Q Were there any other times you were</p> <p>14 deposed?</p> <p>15 A I believe there was, but I have a long</p> <p>16 career and I don't remember specifically another</p> <p>17 time --</p> <p>18 Q -- Do you remember how many -- about how</p> <p>19 many times you were deposed?</p> <p>20 A I'm only confident of one that I was</p> <p>21 just referencing.</p> <p>22 Q So let's turn first to your role at the</p>	<p style="text-align: right;">Page 17</p> <p>1 Q And around what time, when were you the</p> <p>2 deputy associate director for domestic operations?</p> <p>3 A That was the position I held before</p> <p>4 January 2010.</p> <p>5 Q When did you begin that position?</p> <p>6 A I'm not certain but I think that was</p> <p>7 2009 and I don't remember the month.</p> <p>8 Q And did you -- did you have any position</p> <p>9 within DHS before that?</p> <p>10 A Yes. I was the chief of field</p> <p>11 operations immediately before that and that would</p> <p>12 have begun in 2007. Again, I'm not clear on the</p> <p>13 month.</p> <p>14 Q And before that?</p> <p>15 A I was the service center director for</p> <p>16 the California service center.</p> <p>17 Q And how long were you working at that --</p> <p>18 in that position?</p> <p>19 A I believe I started that position in</p> <p>20 2003.</p> <p>21 Q In total, Mr. Neufeld, how long have you</p> <p>22 been working at DHS?</p>

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<p style="text-align: right;">Page 18</p> <p>1 A Since it was created.</p> <p>2 Q And can you give me the date around what</p> <p>3 time that it was?</p> <p>4 A I should know this. I think it was</p> <p>5 March 2010 -- I mean 2003.</p> <p>6 Q And were you working in the government</p> <p>7 prior to that?</p> <p>8 A Yes.</p> <p>9 Q Where were you working prior to the</p> <p>10 creation of DHS?</p> <p>11 A The Legacy Immigration and</p> <p>12 Naturalization Service.</p> <p>13 Q How long had you been working at that</p> <p>14 agency for?</p> <p>15 A Since September 1983.</p> <p>16 Q Okay. I want to turn to SCOPS and its</p> <p>17 role. Can you explain what the SCOPS office does?</p> <p>18 A So we are a component within USCIS. The</p> <p>19 headquarters component where I -- my offices we</p> <p>20 oversee the operations of five service centers.</p> <p>21 Q Can you expand a bit more on what you</p> <p>22 mean by the operations of the service centers?</p>	<p style="text-align: right;">Page 20</p> <p>1 A No.</p> <p>2 Q Do you oversee the processing of DACA</p> <p>3 applications?</p> <p>4 A Yes.</p> <p>5 Q So who reports directly to you,</p> <p>6 Mr. Neufeld?</p> <p>7 A The deputy associate director for</p> <p>8 service center operations.</p> <p>9 Q Who is that?</p> <p>10 A That position is vacant now so there is</p> <p>11 somebody in an acting capacity.</p> <p>12 Q Who is the acting deputy director?</p> <p>13 A Carrie Selby.</p> <p>14 Q Carrie Selby. And who reports to Carrie</p> <p>15 Selby?</p> <p>16 A This gets complicated because it is an</p> <p>17 acting situation. So right now the service center</p> <p>18 directors are reporting to me through that</p> <p>19 position, but that's only for this interim period</p> <p>20 where there is an acting individual.</p> <p>21 Q And normally how does the chain of</p> <p>22 command work?</p>
<p style="text-align: right;">Page 19</p> <p>1 What are those operations?</p> <p>2 A The service centers are responsible for</p> <p>3 adjudicating benefit requests under the</p> <p>4 Immigration Nationality Act.</p> <p>5 Q Did SCOPS process requests for the</p> <p>6 Deferred Action for Childhood Arrivals and</p> <p>7 Accompanying Work Authorization applications?</p> <p>8 A Yes.</p> <p>9 Q So you are familiar with the DACA</p> <p>10 program?</p> <p>11 A Yes.</p> <p>12 Q Can you describe your responsibilities</p> <p>13 as in your role as the associate director of</p> <p>14 SCOPS?</p> <p>15 A I oversee the operations of the five</p> <p>16 service centers.</p> <p>17 Q Is there anything else that you are</p> <p>18 responsible for?</p> <p>19 A I represent the interests of service</p> <p>20 center operations with my colleagues and the rest</p> <p>21 of the agency and the department.</p> <p>22 Q Is there anything else?</p>	<p style="text-align: right;">Page 21</p> <p>1 A Normally the five service center</p> <p>2 directors would report to the deputy associate</p> <p>3 director who reports to me.</p> <p>4 Q Are you in regular contact with the</p> <p>5 directors of the service centers?</p> <p>6 A Yes.</p> <p>7 Q How often are you in contact with them?</p> <p>8 A It varies, but usually at least weekly.</p> <p>9 Q And in what form does this contact take</p> <p>10 place?</p> <p>11 A Usually by email or telephone or video</p> <p>12 conferencing, sometimes in person.</p> <p>13 Q Do they compile reports for you or</p> <p>14 documents on a regular basis?</p> <p>15 A Yes.</p> <p>16 Q Do they keep you apprized of the work</p> <p>17 performed at the service centers?</p> <p>18 A Yes.</p> <p>19 Q How often do they update you?</p> <p>20 A We have a weekly check-in which they can</p> <p>21 bring up whatever information they would like to</p> <p>22 share.</p>

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<p style="text-align: right;">Page 22</p> <p>1 Q Can you describe what is communicated</p> <p>2 during these weekly check-ins?</p> <p>3 A Any matters of interest. Usually they</p> <p>4 are operationally focused so whatever issues might</p> <p>5 be arising at the center that need attention, how</p> <p>6 well they are performing, where the backlogs are</p> <p>7 developing, that sort of thing.</p> <p>8 Q Anything else that they might keep you</p> <p>9 apprized of?</p> <p>10 A Well, it is open to anything anybody</p> <p>11 wants to bring up.</p> <p>12 Q And do they prepare memoranda in</p> <p>13 preparation for this check-in?</p> <p>14 A No.</p> <p>15 Q Do they -- do they keep you apprized of</p> <p>16 the number of immigration related requests that</p> <p>17 each service center has processed?</p> <p>18 A Not normally.</p> <p>19 Q Do they keep you apprized of the number</p> <p>20 of DACA applications processed?</p> <p>21 A No, not normally.</p> <p>22 Q So within these weekly check-ins with</p>	<p style="text-align: right;">Page 24</p> <p>1 DACA applications that was conducted at your</p> <p>2 office. As part of your official duties you</p> <p>3 oversaw the processing of DACA applications. Is</p> <p>4 that correct?</p> <p>5 A That's correct.</p> <p>6 Q So I want to focus my understanding of</p> <p>7 that process and I want to focus on the process</p> <p>8 specifically prior to your office learning about</p> <p>9 the decision to terminate DACA. So I would like</p> <p>10 to go step by step through each process beginning</p> <p>11 with when an individual submits an initial DACA</p> <p>12 application. Is that all right?</p> <p>13 A Yes.</p> <p>14 Q So at the beginning of the application</p> <p>15 process DACA applications are sent to lockboxes.</p> <p>16 Is that correct?</p> <p>17 A Do you mean DACA applications?</p> <p>18 Q Yes?</p> <p>19 A Yes.</p> <p>20 Q How many of lockboxes are there?</p> <p>21 A I don't recall specifically.</p> <p>22 Q After arriving at those lockboxes they</p>
<p style="text-align: right;">Page 23</p> <p>1 the service center directors are there -- is there</p> <p>2 any agenda created beforehand?</p> <p>3 A Infrequently.</p> <p>4 Q How often would sometimes these agendas</p> <p>5 be created?</p> <p>6 A So I believe we started having an</p> <p>7 agenda, maybe within the last two months and it's</p> <p>8 been weekly since then.</p> <p>9 Q Are there minutes coming out of these</p> <p>10 check-ins?</p> <p>11 A No. No.</p> <p>12 Q Are there any written records of what</p> <p>13 was discussed at these check-ins?</p> <p>14 A No.</p> <p>15 Q To whom do you directly report,</p> <p>16 Mr. Neufeld?</p> <p>17 A To the deputy director of USCIS.</p> <p>18 Q Who is that, Mr. Neufeld?</p> <p>19 A James McCament.</p> <p>20 Q Do you report to anyone else?</p> <p>21 A Directly, no.</p> <p>22 Q So let's now turn to the processing of</p>	<p style="text-align: right;">Page 25</p> <p>1 are reviewed for completeness. Correct?</p> <p>2 A Yes.</p> <p>3 Q And if an application is missing a</p> <p>4 component, for example there is no attached filing</p> <p>5 fee or if it's unsigned it would be rejected.</p> <p>6 Correct?</p> <p>7 A Yes.</p> <p>8 Q How did SCOPS handle rejected</p> <p>9 applications?</p> <p>10 A We wouldn't be the ones rejecting them.</p> <p>11 It would be rejected by the lockbox.</p> <p>12 Q How do -- do you know how the lockbox</p> <p>13 handled rejected applications?</p> <p>14 A No.</p> <p>15 Q Were application -- were applicants</p> <p>16 notified of the rejection?</p> <p>17 A I believe so, yes.</p> <p>18 Q Do you know how they were notified?</p> <p>19 A I believe by letter, with the rejected</p> <p>20 application would come a notice instructing them</p> <p>21 that it had been rejected.</p> <p>22 Q You said that they would be issued a</p>

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<p style="text-align: right;">Page 26</p> <p>1 letter. Is that correct?</p> <p>2 A I don't know the specific format. What</p> <p>3 I do know is that when the physical application or</p> <p>4 request would be rejected that along with that</p> <p>5 rejection would be some sort of communication</p> <p>6 explaining that it had been rejected.</p> <p>7 Q Would it be sent back to the applicant?</p> <p>8 A Yes. I am not sure how if they were</p> <p>9 represented how that would be handled.</p> <p>10 Q Who manages those lockboxes, Mr.</p> <p>11 Neufeld?</p> <p>12 A The Treasury Department.</p> <p>13 Q So, it would be the Treasury Department</p> <p>14 that evaluates the applications for completeness</p> <p>15 and would reject them and send the notice back.</p> <p>16 Is that correct?</p> <p>17 A The Treasury Department has a contract</p> <p>18 with banks that manage the lockboxes.</p> <p>19 Q If upon initial review the application</p> <p>20 moves forward were applicants also notified?</p> <p>21 A Can you repeat that?</p> <p>22 Q If upon initial review by the lockboxes</p>	<p style="text-align: right;">Page 28</p> <p>1 for the data entry into our systems. I'm not sure</p> <p>2 exactly how that process works. I believe they</p> <p>3 have their own system but they do data entry into</p> <p>4 it and then it is transmitted to our system so</p> <p>5 that we have an electronic record of the filing.</p> <p>6 Q What system is that?</p> <p>7 A Our system?</p> <p>8 Q Yes.</p> <p>9 A It has changed over time. It was</p> <p>10 initially claims 3. Now it is ELIS. E-L-I-S.</p> <p>11 (Court reporter requested</p> <p>12 clarification.)</p> <p>13 THE WITNESS: E-L-I-S.</p> <p>14 BY MR CHEN:</p> <p>15 Q Do you know what the system that the</p> <p>16 lockbox managers use?</p> <p>17 A I do not.</p> <p>18 Q Who would know? Do you know who would</p> <p>19 know what system that was?</p> <p>20 A The manager of our Office of Intake and</p> <p>21 Document Production.</p> <p>22 Q Who, what is the name of your manager?</p>
<p style="text-align: right;">Page 27</p> <p>1 the application moves forward are applicants</p> <p>2 notified?</p> <p>3 A They would receive a receipt notice.</p> <p>4 Q Were renewal applications processed in</p> <p>5 the same way as initial DACA applications?</p> <p>6 A With respect to the lockbox process?</p> <p>7 Q Right now we're still on the lockbox</p> <p>8 process.</p> <p>9 A Yes.</p> <p>10 Q So they are reviewed for completion,</p> <p>11 notified of denial, and receive a receipt if the</p> <p>12 application is forwarded. Is that correct?</p> <p>13 A That's correct.</p> <p>14 Q What happens once an application is</p> <p>15 approved at the lockboxes?</p> <p>16 A The lockbox wouldn't approve, they would</p> <p>17 only accept or reject.</p> <p>18 Q What happens if the lockbox -- what</p> <p>19 happens if an application is accepted by a</p> <p>20 lockbox? What happens next?</p> <p>21 A Then the lockbox -- I'm not sure of the</p> <p>22 process that they use. But they are responsible</p>	<p style="text-align: right;">Page 29</p> <p>1 A Ernest DeStefano.</p> <p>2 Q Once the accepted applications are</p> <p>3 logged do they move on to the service centers?</p> <p>4 A Yes.</p> <p>5 Q At the service centers who reviewed each</p> <p>6 DACA application?</p> <p>7 A The typical process would be that it</p> <p>8 would be reviewed by an immigration services</p> <p>9 officer.</p> <p>10 Q Were DACA applications processed</p> <p>11 anywhere else besides these service centers?</p> <p>12 A They are only adjudicated at service</p> <p>13 centers. A very small percentage in the last</p> <p>14 several years have been referred to a field office</p> <p>15 for interview but they did not make the final</p> <p>16 decision. They would -- after the interview they</p> <p>17 would send it back to the service center for the</p> <p>18 final decision.</p> <p>19 Q Do you know approximately how many</p> <p>20 applications were referred to a field office for</p> <p>21 an interview?</p> <p>22 A It would be a few hundred.</p>

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<p style="text-align: right;">Page 30</p> <p>1 Q Do you know what percentage of that is</p> <p>2 to the total number of DACA applications?</p> <p>3 A I do not, but it is a very small</p> <p>4 percentage.</p> <p>5 Q Approximately how many USCIS immigration</p> <p>6 officers work at each service center?</p> <p>7 A It varies. Most of these -- let me</p> <p>8 clarify. Things have changed over the years, but</p> <p>9 for the majority of the time the cases have been</p> <p>10 processed at either the Nebraska service center.</p> <p>11 Most of the cases are processed at Nebraska</p> <p>12 service center or the California service center.</p> <p>13 The officer component at each of those has also</p> <p>14 changed. I would imagine that it's around</p> <p>15 probably 400 adjudicators, officers at each of</p> <p>16 those centers.</p> <p>17 Q And what about with the other three</p> <p>18 service centers?</p> <p>19 A Vermont service center is approximately</p> <p>20 the same size.</p> <p>21 The Texas service center is a smaller</p> <p>22 center, so it probably -- although it has grown</p>	<p style="text-align: right;">Page 32</p> <p>1 Q Once a DACA application arrives at a</p> <p>2 service center what happens next?</p> <p>3 A I don't know specifically. The general</p> <p>4 process is that the files would be received in the</p> <p>5 mailroom, processed by a contractor, staged. The</p> <p>6 system -- in an automated way the system would</p> <p>7 conduct background checks. And depending on the</p> <p>8 results of those background checks if there were</p> <p>9 hits then they would go to a dedicated group of</p> <p>10 officers at the center that would review the --</p> <p>11 the information. Other than that the files would</p> <p>12 sit on a shelf until there was an officer</p> <p>13 available. The process usually first in, first</p> <p>14 out. They go to an officer for review. If the</p> <p>15 officer determines it's approvable then they would</p> <p>16 approve it. If there were -- if they determined</p> <p>17 that additional evidence is necessary then they</p> <p>18 would initiate a request for additional evidence.</p> <p>19 If it -- they determined that it should be denied</p> <p>20 then they would deny it.</p> <p>21 Q What criteria do INS adjudicators</p> <p>22 consider when deciding to approve or deny a</p>
<p style="text-align: right;">Page 31</p> <p>1 recently. It's probably closer to the 300 range.</p> <p>2 The Potomac service center is the newest</p> <p>3 center. It is the smallest center and I think</p> <p>4 that they have maybe 200 officers.</p> <p>5 Q And so DACA applications are processed,</p> <p>6 you said that DACA applications are primarily</p> <p>7 processed in the Nebraska and the California</p> <p>8 service centers. Is that correct?</p> <p>9 A That's correct.</p> <p>10 Q But the other three service centers also</p> <p>11 process DACA applications. Is that correct?</p> <p>12 A The Vermont service center processes a</p> <p>13 very small number and those would relate to DACA</p> <p>14 requests where the requester may have had another</p> <p>15 benefit request in the T and U nonimmigrant</p> <p>16 categories or the Violence Against Women Act</p> <p>17 request. I just don't -- well, the Potomac</p> <p>18 service center has never processed DACA requests.</p> <p>19 I don't recall the Texas service center's role. I</p> <p>20 believe that they have processed them at some</p> <p>21 point in the past but it was a very short period</p> <p>22 of time and not very large numbers.</p>	<p style="text-align: right;">Page 33</p> <p>1 request for deferred action?</p> <p>2 A The criteria listed in the June 2012</p> <p>3 memo issued by Janet Napolitano.</p> <p>4 Q Did immigration adjudicators use any</p> <p>5 other criteria?</p> <p>6 A All of the criteria flows from that. It</p> <p>7 was -- the refinement of that criteria has been</p> <p>8 developed through publication of FAQs, frequently</p> <p>9 asked questions on the website.</p> <p>10 Q And so are all of the criteria that</p> <p>11 immigration adjudicators would use, are they on</p> <p>12 the FAQ website?</p> <p>13 A Yes.</p> <p>14 Q If the request for deferred action is</p> <p>15 approved were applicants notified of the approval?</p> <p>16 A Yes.</p> <p>17 Q How were they notified?</p> <p>18 A They would receive an approval notice</p> <p>19 and they would receive an employment authorization</p> <p>20 document.</p> <p>21 Q Is that through the mail or through some</p> <p>22 other communication?</p>

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<p style="text-align: right;">Page 34</p> <p>1 A The mail.</p> <p>2 Q If they were denied -- if their</p> <p>3 application was denied were they notified?</p> <p>4 A Yes.</p> <p>5 Q Are they notified of the reasons for</p> <p>6 denial?</p> <p>7 A Yes.</p> <p>8 Q Can you give me an example of what a</p> <p>9 reason for denial might be?</p> <p>10 A One of the criteria is they would have</p> <p>11 to have arrived under the age of 31 before the</p> <p>12 date of issuance of the memo. So if they -- if</p> <p>13 they had not demonstrated then the case -- then</p> <p>14 their request would be denied.</p> <p>15 Q Is there any quality control to ensure</p> <p>16 that the -- that immigration adjudicators are</p> <p>17 adjudicating based upon the set criteria?</p> <p>18 A So adjudicators are trained and they are</p> <p>19 closely monitored by their supervisor. Cases are</p> <p>20 reviewed by their supervisor when they first begin</p> <p>21 to adjudicate them and then when the supervisor is</p> <p>22 satisfied that they have demonstrated the</p>	<p style="text-align: right;">Page 36</p> <p>1 generated notices. But where they are printed,</p> <p>2 how they are mailed I know has changed over time</p> <p>3 and I'm not confident I know the current process.</p> <p>4 Q Do you know what the previous process</p> <p>5 was?</p> <p>6 A They would have been generated on site</p> <p>7 at the center where the adjudicator was assigned</p> <p>8 and then the contractor would have placed them in</p> <p>9 the mail.</p> <p>10 Q Do you know how long it took the notice</p> <p>11 once mailed to reach an individual?</p> <p>12 A I do not.</p> <p>13 Q Do you know who might know that</p> <p>14 information?</p> <p>15 A No.</p> <p>16 Q Were renewal applications processed in</p> <p>17 the same way at the service centers as initial</p> <p>18 applications?</p> <p>19 A No.</p> <p>20 Q What were the differences?</p> <p>21 A So renewal requests, they are processed</p> <p>22 in ELIS and there is a system processing that goes</p>
<p style="text-align: right;">Page 35</p> <p>1 capabilities then typically their cases are not</p> <p>2 reviewed.</p> <p>3 Q What does the training that immigration</p> <p>4 adjudicators receive involve?</p> <p>5 A It would be training provided on site.</p> <p>6 I don't know the content or the length of time.</p> <p>7 Q Were there training documents or manuals</p> <p>8 involved?</p> <p>9 A I'm sure there were.</p> <p>10 Q Do you know what those documents were?</p> <p>11 A No.</p> <p>12 Q Let me return back to the notices if an</p> <p>13 applicant -- an applicant's application is</p> <p>14 approved. You mentioned before that USCIS used</p> <p>15 the Claims 3 system and then the ELIS system.</p> <p>16 Were they notified through those systems?</p> <p>17 A I don't understand the question.</p> <p>18 Q How were applicants whose applications</p> <p>19 were approved, how were they -- how were the</p> <p>20 notices for them generated?</p> <p>21 A I'm actually not entirely clear on that</p> <p>22 process. I know that they would be system</p>	<p style="text-align: right;">Page 37</p> <p>1 on for them that is different than for the initial</p> <p>2 filing. So an initial request is -- every one of</p> <p>3 those is presented to an adjudicator and they are</p> <p>4 reviewing either paper that was filed with it or</p> <p>5 images of paper that are in the system, scanned</p> <p>6 into the system. Renewal requests are -- there is</p> <p>7 a internal process that's automated where</p> <p>8 depending on the results of background checks,</p> <p>9 depending on checks that are conducted within the</p> <p>10 system some cases may go through to completion</p> <p>11 without being presented individually to an</p> <p>12 officer.</p> <p>13 Q You mentioned some cases. How do you --</p> <p>14 what are those cases that go through without being</p> <p>15 presented to an officer?</p> <p>16 A With the renewal request the individual</p> <p>17 would have already demonstrated eligibility</p> <p>18 previously for DACA. So at the time of the</p> <p>19 renewal request we are basically focused on the</p> <p>20 results of new background checks that were run and</p> <p>21 travel. So part of the -- under the DACA program</p> <p>22 if the individual travels without advance parole</p>

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<p style="text-align: right;">Page 38</p> <p>1 that would -- abroad outside of the United States,</p> <p>2 that would terminate their DACA status. So the</p> <p>3 system will check to see if the applicant either</p> <p>4 answered the question that they had traveled with</p> <p>5 or without advance parole, but also check other</p> <p>6 systems to see whether we had record of their</p> <p>7 travel. If any of those would have come up</p> <p>8 positive then the case would fall out of the</p> <p>9 automated process and get referred to an officer</p> <p>10 for manual review to determine eligibility. So</p> <p>11 typically the process was mini-checks were</p> <p>12 conducted. Depending on the results of those</p> <p>13 checks the case could either be completed</p> <p>14 automatically in the system or be referred to an</p> <p>15 individual officer for review.</p> <p>16 Q Were there any other differences between</p> <p>17 renewal processing and initial application</p> <p>18 processing?</p> <p>19 A Not that I can think of.</p> <p>20 Q If a renewal application was approved</p> <p>21 were applicants also notified of the approval?</p> <p>22 A Yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Is there an acting chief officer?</p> <p>2 A Yes. And his name is Keith Jones.</p> <p>3 Q Okay. So I want to focus now on the</p> <p>4 notice procedures that SCOPS issued to DACA</p> <p>5 applicants and DACA recipients. Now I'm still</p> <p>6 focusing on the process prior your office learning</p> <p>7 about the decision to terminate DACA.</p> <p>8 Did SCOPS have policies directing</p> <p>9 adjudicators to send notices to DACA applicants</p> <p>10 about updates to the status of their application?</p> <p>11 A I'm not following the question.</p> <p>12 Q Did SCOPS have policies about sending</p> <p>13 notices to DACA applicants when the status of</p> <p>14 their application changed when it was updated?</p> <p>15 A Well, first I need to clarify. SCOPS</p> <p>16 doesn't have its own policies. We only follow the</p> <p>17 policies of USCIS.</p> <p>18 Q Does USCIS have those policies about</p> <p>19 sending notices?</p> <p>20 A I'm not sure whether it's by policy or</p> <p>21 regulation, but we -- nonetheless, we do issue</p> <p>22 approval notices, the request for evidence. And</p>
<p style="text-align: right;">Page 39</p> <p>1 Q And how was that approval -- what form</p> <p>2 did that notice?</p> <p>3 A They would receive an approval notice in</p> <p>4 the mail and the EAD, employment authorization</p> <p>5 document.</p> <p>6 Q You said that renewal applications were</p> <p>7 processed through the ELIS system. Were they</p> <p>8 processed through any other system?</p> <p>9 A Claims 3. I'm actually not confident in</p> <p>10 that answer.</p> <p>11 Q Do you know who would know whether</p> <p>12 renewal applications were processed through Claims</p> <p>13 3?</p> <p>14 A Individual officers might know. I --</p> <p>15 there -- I don't know -- we have people in our</p> <p>16 agency who would know that, I just don't recall.</p> <p>17 Q Who in your agency supervises these</p> <p>18 electronic systems?</p> <p>19 A That's the chief of our Office of</p> <p>20 Information Technology.</p> <p>21 Q Who is the chief of office --</p> <p>22 A That position is currently vacant.</p>	<p style="text-align: right;">Page 41</p> <p>1 that's -- those are policy decisions at some point</p> <p>2 that were made that people need to be notified of</p> <p>3 approval, denial.</p> <p>4 Q So how were those -- how were those</p> <p>5 decisions to issue those notices made?</p> <p>6 A As I said, I don't recall whether they</p> <p>7 are by regulation. I believe they're caught up by</p> <p>8 regulation.</p> <p>9 Q Were you involved in the making of those</p> <p>10 decisions to send notices?</p> <p>11 A No.</p> <p>12 Q Were those decisions -- were those</p> <p>13 policies or regulations written down anywhere?</p> <p>14 A If it's a regulation then it's codified</p> <p>15 in our regulations.</p> <p>16 Q So how does -- how does an individual</p> <p>17 employee, immigration adjudicator know to send a</p> <p>18 notice when, for example, someone is -- someone's</p> <p>19 application is approved?</p> <p>20 A Well, as I said the system will generate</p> <p>21 the notice upon approval in the system by the</p> <p>22 officer. Same goes for denial notices.</p>

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<p style="text-align: right;">Page 42</p> <p>1 Q Do you know when these policies were</p> <p>2 set?</p> <p>3 A Are we talking specifically about DACA</p> <p>4 or all adjudications?</p> <p>5 Q Specifically about DACA.</p> <p>6 A So it would have been since the</p> <p>7 beginning of the program.</p> <p>8 Q So since the beginning of the program</p> <p>9 SCOPS or USCIS had sent these -- had sent notice</p> <p>10 to DACA recipients when their status changed or</p> <p>11 updated?</p> <p>12 A Yes.</p> <p>13 Q Did USCIS send notices for when a DACA</p> <p>14 recipient's DACA status was terminated for</p> <p>15 whatever reason before it expired?</p> <p>16 A Yes.</p> <p>17 Q Did USCIS ever send notices to DACA</p> <p>18 recipients notifying them about changes to the</p> <p>19 DACA program?</p> <p>20 MR. TYLER: Objection. Vague.</p> <p>21 BY MR CHEN:</p> <p>22 Q Do you understand the question,</p>	<p style="text-align: right;">Page 44</p> <p>1 A I don't recall specifically, probably at</p> <p>2 least a year ago.</p> <p>3 Q So generally it was around 2016, late</p> <p>4 2016?</p> <p>5 A I don't recall specifically. It might</p> <p>6 have been earlier.</p> <p>7 Q What was the rationale? Why were -- why</p> <p>8 did that policy change?</p> <p>9 MR. TYLER: Objection. Lack of</p> <p>10 foundation.</p> <p>11 BY MR CHEN:</p> <p>12 Q Do you know when the -- why the policies</p> <p>13 changed from 120 days to 180 days?</p> <p>14 A I know that advocacy groups were</p> <p>15 complaining that that was insufficient notice and</p> <p>16 that not enough people were applying early enough</p> <p>17 so that they could prevent a lapse of their DACA</p> <p>18 status.</p> <p>19 Q Do you know who these advocacy groups</p> <p>20 were?</p> <p>21 A I don't recall specific groups.</p> <p>22 Q Do you know generally who these groups</p>
<p style="text-align: right;">Page 43</p> <p>1 Mr. Neufeld?</p> <p>2 A I don't know what you mean by changes to</p> <p>3 the program.</p> <p>4 Q Are you aware of when -- if the DACA</p> <p>5 program changed since it was first issued in 2012?</p> <p>6 MR. TYLER: Objection. Vague.</p> <p>7 THE WITNESS: I still -- I don't know</p> <p>8 what you mean by program.</p> <p>9 BY MR CHEN:</p> <p>10 Q The -- did USCIS ever issue notices to</p> <p>11 remind DACA recipients to renew their</p> <p>12 applications?</p> <p>13 A Yes.</p> <p>14 Q And about when did they send these</p> <p>15 notices?</p> <p>16 A That changed over time. I think we</p> <p>17 started initially with sending them a notice at</p> <p>18 the 120 day point. So, 120 days before their</p> <p>19 current DACA would have expired we would issue a</p> <p>20 notice. And then that changed to six months</p> <p>21 advance notice.</p> <p>22 Q When did that change?</p>	<p style="text-align: right;">Page 45</p> <p>1 were?</p> <p>2 A No.</p> <p>3 Q Were there any other reasons for</p> <p>4 changing the notice from 120 to 180 days?</p> <p>5 A Not that I recall.</p> <p>6 Q Were you involved in the establishment</p> <p>7 of these notice processes?</p> <p>8 A In some ways, yes.</p> <p>9 Q Can you explain what ways you were</p> <p>10 involved?</p> <p>11 A With the stand-up of the DACA program</p> <p>12 there was a -- there were many meetings in the</p> <p>13 early days comprised of many people from different</p> <p>14 parts of the agency working through how best to</p> <p>15 stand up this program and there were many</p> <p>16 conversations at that time about whether and when</p> <p>17 to issue reminder notices and I participated in</p> <p>18 those conversations.</p> <p>19 Q And do you know about when those</p> <p>20 conversations happened?</p> <p>21 A In the first 60 days following the</p> <p>22 issuance of the memo.</p>

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<p style="text-align: right;">Page 46</p> <p>1 Q Do you know who else was involved in</p> <p>2 those conversations?</p> <p>3 A There were many people involved in those</p> <p>4 conversations. I can recall some of them.</p> <p>5 Q Can you name some of the individuals who</p> <p>6 you can recall?</p> <p>7 A Ali Mayorkas (phonetic), Denice Vanison.</p> <p>8 Laurie Shalabaum (phonetic). Many different</p> <p>9 people from counsel. Dan Renaud, Tracy Renaud.</p> <p>10 Many people.</p> <p>11 Q Were you -- what were some of the</p> <p>12 factors that you considered in setting those</p> <p>13 notice policies?</p> <p>14 A I need to repeat that SCOPS doesn't set</p> <p>15 policy. So there were many discussions at the</p> <p>16 executive level. For the most part those</p> <p>17 conversations were about how to implement policy</p> <p>18 decisions that were being made at the department</p> <p>19 level.</p> <p>20 Q And can you explain what those policy</p> <p>21 decisions at the department level were?</p> <p>22 A Let me think. One of them would have</p>	<p style="text-align: right;">Page 48</p> <p>1 to make, to issue reminder notices made within the</p> <p>2 60 days?</p> <p>3 A I believe so, yes.</p> <p>4 Q Were you involved in the making of those</p> <p>5 policies?</p> <p>6 A I was involved in discussions about how</p> <p>7 we could issue notices. I was not in the decision</p> <p>8 making process for that policy. I was not part of</p> <p>9 the group that decided that.</p> <p>10 Q Were you consulted at all in that</p> <p>11 decision to make --</p> <p>12 A Yes.</p> <p>13 Q -- policy? What was the nature of that</p> <p>14 consultation?</p> <p>15 A To offer how we might implement that</p> <p>16 policy if it were adopted.</p> <p>17 Q What was your recommendation to how</p> <p>18 SCOPS might implement that policy?</p> <p>19 MR. TYLER: Object on the grounds of</p> <p>20 privilege. It is deliberative process</p> <p>21 information. Direct the witness not to answer.</p> <p>22</p>
<p style="text-align: right;">Page 47</p> <p>1 been -- you know, whether we are going to issue</p> <p>2 reminder notices again, how far in advance to</p> <p>3 issue the reminder notices. There were -- there</p> <p>4 were a lot of issues in the early days surrounding</p> <p>5 what types of crimes would be disqualifying.</p> <p>6 Q So are you saying that the policy to</p> <p>7 issue reminder notices was made at the department</p> <p>8 level?</p> <p>9 A I believe so, yes.</p> <p>10 Q Do you know who was involved in making</p> <p>11 those policies?</p> <p>12 A At the department level?</p> <p>13 Q Yeah.</p> <p>14 A No. Other than our director</p> <p>15 participated, I'm sure.</p> <p>16 Q Do you know when those policies were</p> <p>17 set?</p> <p>18 A Well, the majority of policy decisions</p> <p>19 needed to be made in the first 60 days because</p> <p>20 that was the time we had to stand up the program</p> <p>21 and we needed to inform the public.</p> <p>22 Q So were the policy to -- was the policy</p>	<p style="text-align: right;">Page 49</p> <p>1 BY MR CHEN:</p> <p>2 Q Were you -- did you write any memoranda</p> <p>3 or documents in response to the consultation about</p> <p>4 how to implement the policy?</p> <p>5 A I don't believe so. There may be email</p> <p>6 messages around that subject dating back to that</p> <p>7 time period.</p> <p>8 Q Do you know -- so around what time were</p> <p>9 those email messages?</p> <p>10 A As I said, this -- all of this was in</p> <p>11 the first 60 days.</p> <p>12 Q Do you know who were the recipients of</p> <p>13 those email messages?</p> <p>14 A No, because I don't even recall specific</p> <p>15 email messages.</p> <p>16 Q Let's return to the DACA notices to</p> <p>17 renew that were sent to DACA applicants. What did</p> <p>18 these notices say?</p> <p>19 A I don't know specifically.</p> <p>20 Q Do you remember generally what they</p> <p>21 said?</p> <p>22 A It was a reminder that their DACA time</p>

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<p style="text-align: right;">Page 50</p> <p>1 period was expiring and that they should submit a</p> <p>2 new -- a request for renewal if they wanted to</p> <p>3 extend.</p> <p>4 Q Was there a time period that the notices</p> <p>5 recommended DACA applicants submit their renewals?</p> <p>6 A That changed over the course of the</p> <p>7 years of operation. I believe originally that</p> <p>8 recommended time period was 120 to 150 days in</p> <p>9 advance. And then that evolved to -- I'm not</p> <p>10 certain. I know that we began encouraging people</p> <p>11 to apply 150 days in advance or more.</p> <p>12 Q Did SCOPS have a name for these notices?</p> <p>13 How did they refer to the notices?</p> <p>14 A Reminder notices.</p> <p>15 Q Reminder notices. Did SCOPS send</p> <p>16 reminder notices to all DACA recipients whose</p> <p>17 status was about to expire?</p> <p>18 A For a period of time, yes.</p> <p>19 Q What period of time was that?</p> <p>20 A From the beginning of the DACA program</p> <p>21 until -- I don't recall specifically, but within</p> <p>22 the last year I believe we have stopped issuing</p>	<p style="text-align: right;">Page 52</p> <p>1 development of the capability to issue those</p> <p>2 notices in ELIS not -- that they did not need to</p> <p>3 work on that capability.</p> <p>4 Q Who are these individuals that were</p> <p>5 sending these communications?</p> <p>6 A I'm not sure.</p> <p>7 Q Did they send them to you? The</p> <p>8 communications that you referred to, did the --</p> <p>9 were the communications sent to you, Mr. Neufeld?</p> <p>10 A Not that I recall.</p> <p>11 Q So how were you aware, made aware of</p> <p>12 these communications?</p> <p>13 A I'm aware that the decision was made and</p> <p>14 I'm aware that it was communicated in some way. I</p> <p>15 don't know specifically the vehicle of</p> <p>16 communication to the developers.</p> <p>17 Q Who informed you that the -- that the</p> <p>18 decision was made?</p> <p>19 A Kathy Nuebel.</p> <p>20 Q Do you know about when she informed you</p> <p>21 of that decision?</p> <p>22 A Several months ago. I don't recall more</p>
<p style="text-align: right;">Page 51</p> <p>1 those notices.</p> <p>2 Q Within the last year, do you know about</p> <p>3 what time within the last year?</p> <p>4 A No.</p> <p>5 Q Do you know who might know that</p> <p>6 information?</p> <p>7 A I don't know who, I know there are</p> <p>8 records that would relate to that.</p> <p>9 Q What are the -- do you know who created</p> <p>10 these records?</p> <p>11 A No.</p> <p>12 Q Do you know when these records were</p> <p>13 created?</p> <p>14 A No.</p> <p>15 Q What were the nature of these records?</p> <p>16 Were they memoranda or reports?</p> <p>17 A I don't know.</p> <p>18 Q So how are you aware that there are</p> <p>19 records relating to the termination of these</p> <p>20 notices?</p> <p>21 A I know that there were communications to</p> <p>22 the team that would have been responsible for</p>	<p style="text-align: right;">Page 53</p> <p>1 specifically than that.</p> <p>2 Q When, in what form did she inform you?</p> <p>3 Was this a conversation?</p> <p>4 A Email messages.</p> <p>5 Q Who -- do you know who else -- who else</p> <p>6 was on that email -- sorry, was CCed on that</p> <p>7 email?</p> <p>8 A I do not.</p> <p>9 Q Do you recall what the subject of the</p> <p>10 email was?</p> <p>11 A The subject line, I do not.</p> <p>12 Q Was this in response to a previous</p> <p>13 email?</p> <p>14 A It was in response to me raising the</p> <p>15 question as to whether we would develop that</p> <p>16 capability in ELIS.</p> <p>17 Q Do you know about when you sent that</p> <p>18 request?</p> <p>19 A Several months ago is all I can recall.</p> <p>20 Q In that email that was sent to you, do</p> <p>21 you remember if there were any attachments to the</p> <p>22 email?</p>

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<p style="text-align: right;">Page 54</p> <p>1 A I do not recall.</p> <p>2 Q Who is Kathy Nuebel?</p> <p>3 A She is the chief of the Office of Policy</p> <p>4 and Strategy within USCIS.</p> <p>5 Q Were there any other communications</p> <p>6 about the decision not to -- the decision to stop</p> <p>7 issuing renewal notices?</p> <p>8 MR. TYLER: Objection. Lack of</p> <p>9 foundation.</p> <p>10 BY MR CHEN:</p> <p>11 Q Are you aware of any other</p> <p>12 communication?</p> <p>13 A Of?</p> <p>14 Q Are you aware of any other</p> <p>15 communications about the decision to terminate</p> <p>16 those renewal notices?</p> <p>17 A I'm aware that -- I know that I sent</p> <p>18 messages to my subordinate team that that</p> <p>19 capability would not be being developed.</p> <p>20 Q When were those -- how were you made</p> <p>21 aware of those messages?</p> <p>22 A Well, they were my messages.</p>	<p style="text-align: right;">Page 56</p> <p>1 A It's all in the same time period that I</p> <p>2 don't recall specifically.</p> <p>3 Q You said that there would be costs</p> <p>4 involved. Do you know what those costs -- what</p> <p>5 you mean by that? Can you explain further?</p> <p>6 A What I meant by that were the</p> <p>7 development costs with programming the system to</p> <p>8 have that capability.</p> <p>9 Q What are those development costs?</p> <p>10 A I don't know specifically.</p> <p>11 Q Did you -- do you know generally what</p> <p>12 those costs might be?</p> <p>13 A We have to pay people to do the</p> <p>14 programming.</p> <p>15 Q Did you ever communicate to Kathy Nuebel</p> <p>16 about how much those costs were?</p> <p>17 A I don't think so because I don't know</p> <p>18 what they would be specifically.</p> <p>19 Q Did you know generally what those costs</p> <p>20 were at all?</p> <p>21 A Not that I recall.</p> <p>22 MR CHEN: So I am -- for the record, I</p>
<p style="text-align: right;">Page 55</p> <p>1 Q Sorry. You -- when did you send these</p> <p>2 messages?</p> <p>3 A It would have been contemporaneous with</p> <p>4 the rest of these messages and that was several</p> <p>5 months ago and I don't recall specific dates.</p> <p>6 Q What did you -- do you remember what you</p> <p>7 communicated to your subordinates in those</p> <p>8 messages?</p> <p>9 MR. TYLER: Objection. Vague.</p> <p>10 THE WITNESS: I communicated to them</p> <p>11 that the capability would not be being developed</p> <p>12 in ELIS to issue reminder notices.</p> <p>13 BY MR CHEN:</p> <p>14 Q Do you know why USCIS stopped sending</p> <p>15 the renewal notices?</p> <p>16 A I know that I was asked whether there</p> <p>17 would be costs involved and I answered yes.</p> <p>18 Q Who asked you about those costs?</p> <p>19 A Kathy Nuebel.</p> <p>20 Q Do you know about when she asked you</p> <p>21 about them?</p> <p>22</p>	<p style="text-align: right;">Page 57</p> <p>1 am now handing to the court reporter what is</p> <p>2 marked as Exhibit 1. If you could please mark</p> <p>3 this as Exhibit 1.</p> <p>4 (Whereupon, Exhibit No. 1 marked for</p> <p>5 identification.)</p> <p>6 MR CHEN: And I'm also handing a copy of</p> <p>7 what is marked as Exhibit 1 to Mr. Neufeld.</p> <p>8 MR. TYLER: Do you have additional</p> <p>9 copies for counsel?</p> <p>10 MR CHEN: I'm handing a copy to</p> <p>11 Mr. Tyler.</p> <p>12 MR. TYLER: Do you have more than one</p> <p>13 copy so I can --</p> <p>14 MR. WISHNIE: We don't have sufficient</p> <p>15 copies for the whole table.</p> <p>16 MR CHEN: No. But for myself in</p> <p>17 addition to the deponent?</p> <p>18 MR. WISHNIE: Yes.</p> <p>19 MR. TYLER: So there are two copies of</p> <p>20 that?</p> <p>21 MR CHEN: Yes. We have one copy just</p> <p>22 for the deponent and one for the court reporter.</p>

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1 Can I request that this exhibit be marked as
2 Exhibit 38, please.
3 (Whereupon, Exhibit No. 38 was marked
4 for identification.)
5 BY MR CHEN:
6 Q And for the record the document is
7 titled defendant's objections and responses to
8 plaintiff's first set of interrogatories to
9 defendants dated October 16, 2017.
10 Mr. Neufeld, if you could, it is a long
11 document so you don't need to take -- you don't
12 need to read through the whole thing. But if you
13 could take a look at page 31, please. And
14 familiarize yourself with the last three
15 paragraphs, please.
16 MR. TYLER: Beginning with the automatic
17 generation?
18 MR CHEN: Yes.
19 BY MR CHEN:
20 Q Can you let me know when you've
21 familiarized yourself with the document, please?
22 A Yes. I've read it.

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1 Q Okay. So according to this document the
2 SCOPS transitioned from the Claims 3 system for
3 printing up renewal notices to the electronic
4 print management server. Is that correct?
5 A Yes.
6 Q Do you know when that transition
7 occurred?
8 A I don't know anything more than what's
9 stated in this document.
10 Q And it's dated in the document that
11 transition occurred around July 2017. Is that
12 correct?
13 A Yes.
14 Q According to this document -- well,
15 Mr. Neufeld, is it true that the decision not to
16 develop renewal notice, the renewal notice feature
17 in the electronic print management server was due
18 to significant operational costs associated with
19 rebuilding the service?
20 MR. TYLER: Objection. Lack of
21 foundation.
22

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1 BY MR CHEN:
2 Q Do you know if that -- if the decision
3 not to develop the renewal notice feature for the
4 electronic print management server was due to
5 significant operation costs associated with
6 rebuilding the service?
7 A I know that that's what I was told.
8 Q Who were you told by, Mr. Neufeld?
9 A Kathy Nuebel.
10 Q Can you explain the relationship between
11 the electronic print management server, which by
12 the way I will refer to now as EPMS for the
13 record. Can you explain the relationship between
14 the EPMS system and the ELIS system, Mr. Neufeld?
15 A No.
16 Q Do you know who might be able to explain
17 that relationship?
18 A Someone in our IT shop, so possibly
19 Keith Jones.
20 Q Is it true that the renewal notice
21 feature was never developed for the ELIS system?
22 MR. TYLER: Objection. Lack of

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1 foundation.
2 BY MR CHEN:
3 Q Do you know whether the renewal notice
4 feature was ever developed for the ELIS system?
5 A Yes.
6 Q And was it developed for the ELIS
7 system?
8 A No.
9 Q So let me focus first on the migration
10 from the Claims 3 server, the EPMS print server.
11 And I apologize if I am a bit slow on this because
12 there are quite a few technical details.
13 Do you know how many DACA requests in
14 the Claims 3 system were handled by the EPMS
15 system?
16 A I do not.
17 Q Do you know how many -- who would know?
18 A No, I don't.
19 Q So according to this document on page 31
20 in the second paragraph towards the end it states
21 that the overwhelming majority of pending DACA
22 requests were then handled by ELIS and had been

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<p style="text-align: right;">Page 62</p> <p>1 adjudicated in ELIS until approximately February</p> <p>2 1, 2016.</p> <p>3 Does that refresh your memory about how</p> <p>4 many DACA applications were then handled in the</p> <p>5 Claims 3 system?</p> <p>6 A No.</p> <p>7 Q Do you know why SCOPS migrated from the</p> <p>8 Claims 3 system to the EPMS system?</p> <p>9 A It's not SCOPS. These are decisions</p> <p>10 that are made at the agency level, so I don't know</p> <p>11 the specific reasons.</p> <p>12 Q Would you know the general reason why</p> <p>13 USCIS migrated?</p> <p>14 A That the EPMS is supposed to be more</p> <p>15 efficient, that was the one reason that I know of.</p> <p>16 Q Do you know of any other reasons?</p> <p>17 A No.</p> <p>18 Q Can you explain further what you mean by</p> <p>19 more efficient?</p> <p>20 A No.</p> <p>21 Q Were you involved in the decision to</p> <p>22 migrate from Claims 3 to the EPMS system?</p>	<p style="text-align: right;">Page 64</p> <p>1 ever become aware that the EPMS system did not</p> <p>2 have the renewal notice functionality?</p> <p>3 A Not specifically that it was because of</p> <p>4 EPMS. I knew that in -- we didn't have -- we no</p> <p>5 longer had the capability of issuing the reminder</p> <p>6 notices without specifically programming a system</p> <p>7 to do that. Whether it was EPMS or Claims 3 I</p> <p>8 didn't know specifically or I don't remember</p> <p>9 specifically.</p> <p>10 Q Who made you aware of the fact that</p> <p>11 you -- that SCOPS did not have the capability?</p> <p>12 A I believe it was Alex King.</p> <p>13 Q And who is Alex King, Mr. Neufeld?</p> <p>14 A He is the branch chief with DACA in my</p> <p>15 SCOPS organization that doesn't -- that has --</p> <p>16 manages the DACA portfolio for SCOPS.</p> <p>17 Q Do you know when he made you aware that</p> <p>18 you didn't have this functionality?</p> <p>19 A No.</p> <p>20 Q Do you know around what time?</p> <p>21 A No.</p> <p>22</p>
<p style="text-align: right;">Page 63</p> <p>1 A No.</p> <p>2 Q Were you consulted about that decision?</p> <p>3 A No.</p> <p>4 Q Do you know who was involved in that</p> <p>5 decision?</p> <p>6 A Individuals in our IT shop would have</p> <p>7 been involved in that. I don't know specifically</p> <p>8 who.</p> <p>9 Q And did you ever communicate with these</p> <p>10 individuals in the IT shop about the migration</p> <p>11 with the decision to migrate?</p> <p>12 A Not that I recall specifically.</p> <p>13 Q Did you have any general conversations</p> <p>14 about the migration from the Claims 3 system to</p> <p>15 the EPMS system?</p> <p>16 A Not that I recall.</p> <p>17 Q Were you aware that the EPMS print</p> <p>18 service system did not have the renewal notice</p> <p>19 functionality when the decision to switch that</p> <p>20 system was made?</p> <p>21 A No.</p> <p>22 Q Were you aware -- were you -- did you</p>	<p style="text-align: right;">Page 65</p> <p>1 Q Do you remember what -- how Alex King</p> <p>2 informed you?</p> <p>3 A Yes. He walked into my office.</p> <p>4 Q So this was a discussion?</p> <p>5 A Yes.</p> <p>6 Q Was there anyone else involved in that</p> <p>7 discussion?</p> <p>8 A No.</p> <p>9 Q And did you inquire as to why SCOPS no</p> <p>10 longer had that functionality?</p> <p>11 A Not that I recall.</p> <p>12 Q Were you concerned at all that SCOPS no</p> <p>13 longer had that functionality?</p> <p>14 MR. TYLER: Objection. Vague.</p> <p>15 BY MR CHEN:</p> <p>16 Q Were you -- did you inquire as to why</p> <p>17 there was no -- that SCOPS did not have the</p> <p>18 functionality to build in renewal notices despite</p> <p>19 having had renewal notices since the beginning of</p> <p>20 the program?</p> <p>21 A I recall noting to myself that that</p> <p>22 meant that we wouldn't be able to produce reminder</p>

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<p style="text-align: right;">Page 66</p> <p>1 notices that had been the standard practice.</p> <p>2 Q Did the lack of that functionality</p> <p>3 bother you at all?</p> <p>4 MR. TYLER: Objection. Vague.</p> <p>5 THE WITNESS: I don't get bothered by</p> <p>6 these things. I noted it as something that would</p> <p>7 need to be addressed one way or the other either</p> <p>8 that we would either build the capability or we</p> <p>9 wouldn't be able to continue producing the</p> <p>10 notices.</p> <p>11 BY MR CHEN:</p> <p>12 Q Did you have any reaction at all that</p> <p>13 SCOPS would no longer have this renewal notice</p> <p>14 capability?</p> <p>15 MR. TYLER: Objection. Vague.</p> <p>16 THE WITNESS: I noted, as I said, that a</p> <p>17 decision would have to be made of whether to build</p> <p>18 that capability or not.</p> <p>19 BY MR CHEN:</p> <p>20 Q And were you involved in the decision</p> <p>21 not to build that capability?</p> <p>22 A I elevated the decision, the need for a</p>	<p style="text-align: right;">Page 68</p> <p>1 made an attempt to build in the renewal notice</p> <p>2 feature?</p> <p>3 A I am not.</p> <p>4 Q Do you know what it would have taken to</p> <p>5 build in the renewal notice feature for the EPMS?</p> <p>6 A I do not.</p> <p>7 Q You said previously that building in the</p> <p>8 renewal notice feature would have operational</p> <p>9 costs. Is that true?</p> <p>10 A It would -- there would have been costs</p> <p>11 involved in developing that capability.</p> <p>12 Q What was the basis for that knowledge,</p> <p>13 Mr. Neufeld?</p> <p>14 A My general knowledge of how IT systems</p> <p>15 works. Somebody has to program them to do things</p> <p>16 and there is a cost associated with that.</p> <p>17 Q Did you ever inform Kathy Nuebel about</p> <p>18 the specific costs of building in that feature?</p> <p>19 A Not that I recall.</p> <p>20 Q Has USCIS ever before decided not to</p> <p>21 notify a specific group of DACA recipients about</p> <p>22 renewal?</p>
<p style="text-align: right;">Page 67</p> <p>1 decision to Kathy Nuebel.</p> <p>2 Q Do you know approximately when you</p> <p>3 elevated that?</p> <p>4 A Around the same time period.</p> <p>5 Q Why did you? Do you know why you</p> <p>6 elevated that -- that information to Kathy Nuebel?</p> <p>7 A Because policy decisions are not made</p> <p>8 within SCOPS.</p> <p>9 Q Did SCOPS ever make an attempt to build</p> <p>10 in the renewal notice feature?</p> <p>11 MR. TYLER: Objection. Lack of</p> <p>12 foundation.</p> <p>13 THE WITNESS: SCOPS doesn't build</p> <p>14 capabilities. That's -- that would be our OIT</p> <p>15 shop.</p> <p>16 BY MR CHEN:</p> <p>17 Q Do you know if the IT shop attempted to</p> <p>18 build in the renewal notice feature?</p> <p>19 A I don't -- I really don't understand</p> <p>20 your question. You mean after -- like when or?</p> <p>21 Q For the EPMS system are you aware of</p> <p>22 whether SCOPS or the IT department within SCOPS</p>	<p style="text-align: right;">Page 69</p> <p>1 A Before either of these two times?</p> <p>2 Q Yes.</p> <p>3 A No.</p> <p>4 Q I want to return to the -- the exhibit</p> <p>5 that I just handed you on page 31. The document</p> <p>6 says that USCIS transitioned from the Claims 3</p> <p>7 system to the ELIS system in which DACA requests</p> <p>8 have been adjudicated since approximately February</p> <p>9 1, 2016. Is that correct? This is in the --</p> <p>10 sorry, the first paragraph of page 31, the second</p> <p>11 sentence.</p> <p>12 A I'm sorry. What is the question?</p> <p>13 Q Is it correct that USCIS transitioned</p> <p>14 from the Claims 3 system to the ELIS system in</p> <p>15 approximately around February 1, 2016?</p> <p>16 A I believe so, yes.</p> <p>17 Q So if SCOPS continued its practice of</p> <p>18 sending out renewal notices 180 days before an</p> <p>19 applicant's expiration the first notices for cases</p> <p>20 under the ELIS system would have been sent out</p> <p>21 approximately August 1, 2017. Is that correct?</p> <p>22 A Yes.</p>

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<p style="text-align: right;">Page 70</p> <p>1 Q But the renewal notice feature was never</p> <p>2 developed for that ELIS system? Is that correct?</p> <p>3 A Correct.</p> <p>4 Q Do you know if the ELIS system issued</p> <p>5 other types of notices besides renewal notices?</p> <p>6 A The technicalities of which system does</p> <p>7 what I don't know. I know that cases that we</p> <p>8 processed in ELIS will receive approval notices,</p> <p>9 receipt notice, request for additional evidence,</p> <p>10 notices of intent to deny.</p> <p>11 Q Do you know of any other -- any</p> <p>12 differences between the ELIS system and the Claims</p> <p>13 3 system?</p> <p>14 MR. TYLER: Objection. Vague.</p> <p>15 THE WITNESS: They're completely</p> <p>16 different systems.</p> <p>17 BY MR CHEN:</p> <p>18 Q So besides the lack of functionality for</p> <p>19 renewal notice in ELIS were there other</p> <p>20 differences regarding notices between the Claims 3</p> <p>21 system and the ELIS system?</p> <p>22 MR. TYLER: Objection. Lack of</p>	<p style="text-align: right;">Page 72</p> <p>1 system?</p> <p>2 A By individual, no.</p> <p>3 Q Do you know what department made the</p> <p>4 decision to transition to the ELIS system?</p> <p>5 A It's an agency wide decision that I am</p> <p>6 not sure what role the department plays in that or</p> <p>7 certainly I don't recall what role it played back</p> <p>8 when this decision was made.</p> <p>9 Q Did you have any involvement in the</p> <p>10 decision to transition to the ELIS system?</p> <p>11 A There are -- there have been meetings</p> <p>12 with the development -- over time with the</p> <p>13 development of capabilities within ELIS and the</p> <p>14 migration of case processing from Claims 3 to</p> <p>15 ELIS. And I'm part of a group that the membership</p> <p>16 and the name of that group has changed over time,</p> <p>17 but overall this time I have been a participant in</p> <p>18 meetings where there are discussions about what</p> <p>19 would be appropriate for development in ELIS with</p> <p>20 respect to which case types would be migrated from</p> <p>21 Claims 3 into ELIS. So I would receive updates,</p> <p>22 participate in discussions. The final decision</p>
<p style="text-align: right;">Page 71</p> <p>1 foundation. Vague.</p> <p>2 THE WITNESS: I don't know specifically</p> <p>3 the differences between the two system with</p> <p>4 respect to notice generation.</p> <p>5 BY MR CHEN:</p> <p>6 Q Do you know who would know?</p> <p>7 A Someone in our OIT shop.</p> <p>8 Q Do you know what the cost of developing</p> <p>9 ELIS's capacity to issue renewal notices is?</p> <p>10 A No.</p> <p>11 Q Do you know what the costs for the ELIS</p> <p>12 system in developing other notices such as the</p> <p>13 notices that you've just mentioned?</p> <p>14 A No.</p> <p>15 Q Is the ELIS system more sophisticated</p> <p>16 than the Claims 3 system?</p> <p>17 MR. TYLER: Objection. Vague.</p> <p>18 THE WITNESS: If by sophisticated you</p> <p>19 mean is it -- use different technology, yes.</p> <p>20 BY MR CHEN:</p> <p>21 Q At the time that you -- do you know who</p> <p>22 made the decision to transition to the ELIS</p>	<p style="text-align: right;">Page 73</p> <p>1 about what the migration of case work from Claims</p> <p>2 3 to ELIS is not made by that group, it's made by</p> <p>3 others and so I don't know.</p> <p>4 Q Do you know by others do you know who</p> <p>5 you're -- who are you referring to?</p> <p>6 A I know that our deputy and our director</p> <p>7 played a role in those decisions. What I don't</p> <p>8 know is to what level that role was autonomous or</p> <p>9 they were consulting with others. Or were -- you</p> <p>10 know, whether the decision was made by others at</p> <p>11 the department above them.</p> <p>12 Q Did they ever discuss the transition to</p> <p>13 the ELIS system specifically with respect to DACA</p> <p>14 applications with you?</p> <p>15 A Yes.</p> <p>16 Q When did they discuss this with you?</p> <p>17 A It would have been before we migrated,</p> <p>18 but I don't know how long before.</p> <p>19 Q Did they ever consult you about that</p> <p>20 migration?</p> <p>21 A Who is they?</p> <p>22 Q The deputy and the director that you</p>

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<p style="text-align: right;">Page 74</p> <p>1 mentioned, did they consult you about the decision</p> <p>2 to migrate specifically DACA applications to the</p> <p>3 ELIS system?</p> <p>4 A I don't know if consultation is the</p> <p>5 right word. There were discussions about the</p> <p>6 migration of DACA case work from Claims 3 into</p> <p>7 ELIS, yes.</p> <p>8 Q Do you provide your input into those</p> <p>9 discussions?</p> <p>10 MR. TYLER: Objection. Vague.</p> <p>11 THE WITNESS: I don't know what you mean</p> <p>12 by input.</p> <p>13 BY MR CHEN:</p> <p>14 Q Did you ever provide any recommendations</p> <p>15 about whether DACA applications should migrate to</p> <p>16 the ELIS system or not?</p> <p>17 A I don't recall specifically, no.</p> <p>18 Q At the time that the DACA applications</p> <p>19 were transitioned to the ELIS system were you</p> <p>20 aware that ELIS did not have the renewal notice</p> <p>21 capability?</p> <p>22 A No.</p>	<p style="text-align: right;">Page 76</p> <p>1 development costs and I said yes.</p> <p>2 Q Were you asked about any specifics with</p> <p>3 regard to development costs?</p> <p>4 A Not that I recall.</p> <p>5 Q Do you know what it would have taken to</p> <p>6 develop the renewal notice capability through</p> <p>7 ELIS?</p> <p>8 MR. TYLER: Objection. Vague.</p> <p>9 BY MR CHEN:</p> <p>10 Q Do you know how much it would have cost?</p> <p>11 A No.</p> <p>12 Q To implement the renewal notice</p> <p>13 capability?</p> <p>14 A I do not.</p> <p>15 Q In your communications with Kathy</p> <p>16 Nuebel, was the potential for termination of the</p> <p>17 DACA program ever discussed?</p> <p>18 A In which -- I'm confused.</p> <p>19 Q When -- in your discussions with Kathy</p> <p>20 Nuebel about the renew -- about implementing the</p> <p>21 renewal notices, was the potential termination of</p> <p>22 the DACA program ever discussed?</p>
<p style="text-align: right;">Page 75</p> <p>1 Q Did you ever become -- when did you</p> <p>2 become aware that the ELIS system did not have the</p> <p>3 renewal notice capability?</p> <p>4 A When Alex King came to my office and</p> <p>5 said so as such.</p> <p>6 Q Do you know if your office had planned</p> <p>7 to implement the renewal notice capability for the</p> <p>8 ELIS system?</p> <p>9 MR. TYLER: Objection. Vague.</p> <p>10 THE WITNESS: I don't understand.</p> <p>11 BY MR CHEN:</p> <p>12 Q Do you know why the -- do you know why</p> <p>13 SCOPS did not implement the renewal notice</p> <p>14 capability for the ELIS system?</p> <p>15 A SCOPS doesn't develop IT capabilities.</p> <p>16 The decision not to build that capability was</p> <p>17 conveyed to me by Kathy Nuebel.</p> <p>18 Q Do you know why USCIS did not develop</p> <p>19 those capabilities?</p> <p>20 A Not specifically.</p> <p>21 Q Generally, do you know?</p> <p>22 A I know that I was asked would there be</p>	<p style="text-align: right;">Page 77</p> <p>1 MR. TYLER: Objection. Vague.</p> <p>2 BY MR CHEN:</p> <p>3 Q Do you understand the question,</p> <p>4 Mr. Neufeld?</p> <p>5 A If you mean in the email exchange about</p> <p>6 whether or not we should -- when I elevated the</p> <p>7 question or the issue that we wouldn't have the</p> <p>8 capability of issuing those reminder notices</p> <p>9 without investing in that development, did either</p> <p>10 of us mention DACA being discontinued? I don't</p> <p>11 recall specifically whether that was part of that</p> <p>12 discussion.</p> <p>13 Q Do you remember generally if it was part</p> <p>14 of that discussion?</p> <p>15 A No.</p> <p>16 Q Did you ever discuss the potential</p> <p>17 termination of the DACA program with Kathy Nuebel?</p> <p>18 A Yes.</p> <p>19 Q In what form did that discussion take</p> <p>20 place?</p> <p>21 A In person, telephone, meetings.</p> <p>22 Q Do you know around when those</p>

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<p style="text-align: right;">Page 78</p> <p>1 discussions took place?</p> <p>2 A Around when would have been sometime</p> <p>3 since she arrived, which was after -- sometime</p> <p>4 after Trump came into office and ever since.</p> <p>5 Q Let's start with the meetings. Were</p> <p>6 there any -- do you know -- do you recall any</p> <p>7 specific meetings in which you discussed the</p> <p>8 potential termination of the DACA program with</p> <p>9 Kathy Nuebel?</p> <p>10 A Yes.</p> <p>11 Q When did those specific meetings --</p> <p>12 specific meetings occur?</p> <p>13 A I don't recall the specific date. On</p> <p>14 September 5th there was the announcement issued</p> <p>15 about the wind down of DACA. And very shortly</p> <p>16 before that, I believe it was the week before</p> <p>17 that, there was a specific meeting that involved</p> <p>18 Kathy Nuebel discussing the wind down.</p> <p>19 Q And did you discuss -- did you discuss</p> <p>20 the fact that ELIS did not have renewal notice</p> <p>21 capabilities in that meeting?</p> <p>22 A No.</p>	<p style="text-align: right;">Page 80</p> <p>1 meeting?</p> <p>2 A Yes.</p> <p>3 Q What was the content of the discussion?</p> <p>4 MR. TYLER: I'll object on the grounds</p> <p>5 of deliberative process privilege, attorney/client</p> <p>6 privilege, attorney work product privilege.</p> <p>7 Directing the witness not to answer.</p> <p>8 MR CHEN: Just for the record I want to</p> <p>9 briefly note our objection to the invocation of</p> <p>10 the deliberative process instruction in this</p> <p>11 deposition. First, we don't think it's</p> <p>12 appropriate to invoke that privilege generally in</p> <p>13 this case because plaintiffs are challenging the</p> <p>14 agency's decision making process and even if the</p> <p>15 privilege does apply in this case we don't think</p> <p>16 the government has met it's burden of making a</p> <p>17 sufficient showing of the elements in that</p> <p>18 specific instance. And I want to also note that</p> <p>19 plaintiff's position is that the defendants have</p> <p>20 waived attorney/client privilege over any</p> <p>21 materials that bear on the legality of the DACA</p> <p>22 program. Defendants stated that one of DHS's</p>
<p style="text-align: right;">Page 79</p> <p>1 Q Who else was part of that meeting?</p> <p>2 A James McCament, Tracy Renaud. Gene</p> <p>3 Hamilton I believe participated by phone. There</p> <p>4 was another individual -- individual on the phone</p> <p>5 that I don't recall his name or even where he</p> <p>6 worked. I believe there may have been one or two</p> <p>7 others. I couldn't recall specifically who they</p> <p>8 were.</p> <p>9 Q What was the subject of that meeting?</p> <p>10 Do you remember?</p> <p>11 A The wind down of DACA.</p> <p>12 Q Was there an agenda for that meeting?</p> <p>13 A No.</p> <p>14 Q Were there any written materials</p> <p>15 generated for that meeting?</p> <p>16 A Not that I recall.</p> <p>17 Q Do you know if someone took notes or</p> <p>18 minutes of that meetings?</p> <p>19 A I don't believe so.</p> <p>20 Q Were written minutes shared afterwards?</p> <p>21 A No.</p> <p>22 Q Do you know what was discussed at that</p>	<p style="text-align: right;">Page 81</p> <p>1 primary reasons for rescinding DACA was its</p> <p>2 purported illegality, and thus the agency</p> <p>3 incorporated by reference into it's policy legal</p> <p>4 arguments about the lawfulness of the DACA</p> <p>5 program. So I just want to put that in the</p> <p>6 record.</p> <p>7 Should we take a break at this point?</p> <p>8 (Multiple voices discussing going off</p> <p>9 the record.)</p> <p>10 THE VIDEOGRAPHER: We are going off of</p> <p>11 the record. This is the end of media unit number</p> <p>12 1. The time is at 10:41 a.m.</p> <p>13 (The proceeding recessed from 10:42 a.m.</p> <p>14 to 10:55 a.m.)</p> <p>15 THE VIDEOGRAPHER: This is the beginning</p> <p>16 of media unit number 2. The time is 10:55 a.m.</p> <p>17 BY MR CHEN:</p> <p>18 Q Mr. Neufeld, I want to return back to</p> <p>19 the renewal notices under the ELIS system and just</p> <p>20 clarify time lines. So, as you discussed earlier</p> <p>21 DACA requests were being adjudicated under the</p> <p>22 ELIS system since approximately February 2016. Is</p>

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<p style="text-align: right;">Page 82</p> <p>1 that correct?</p> <p>2 A Yes.</p> <p>3 Q And you had previous -- previously said</p> <p>4 that ELIS was generating other types of notices</p> <p>5 besides renewal notices. Is that correct?</p> <p>6 A Yes.</p> <p>7 Q Were those notices printed through the</p> <p>8 ELIS system?</p> <p>9 A I don't know.</p> <p>10 Q Do you know if they were printed through</p> <p>11 the Claims 3 system?</p> <p>12 A I don't believe a case adjudicated in</p> <p>13 ELIS would result in Claims 3 printing notices,</p> <p>14 no.</p> <p>15 Q Do you know if the ELIS system has</p> <p>16 notice printing capabilities?</p> <p>17 A I know that cases we adjudicate in ELIS</p> <p>18 have notices printed. I don't know the mechanics</p> <p>19 of that process.</p> <p>20 Q Do you know during the transition in</p> <p>21 February 2016 if ELIS handled only initial DACA</p> <p>22 applications or did they also handle renewal</p>	<p style="text-align: right;">Page 84</p> <p>1 THE WITNESS: I don't have an opinion on</p> <p>2 that.</p> <p>3 BY MR CHEN:</p> <p>4 Q Did you have any belief that DACA</p> <p>5 applicants would not be able to renew on time</p> <p>6 because they did not receive renewal notices?</p> <p>7 A No.</p> <p>8 Q Did SCOPS take other steps to notify</p> <p>9 DACA recipients about their options for renewal</p> <p>10 under the ELIS system?</p> <p>11 A That's not a function of SCOPS.</p> <p>12 Q Do you know if USCIS took steps to</p> <p>13 notify DACA recipients about renewing under the</p> <p>14 ELIS system?</p> <p>15 A We have a communications component that</p> <p>16 communicates on issues of how to apply, when to</p> <p>17 apply, that sort of thing. And I know that there</p> <p>18 is information that they post on our website, so</p> <p>19 yes.</p> <p>20 Q Do you know if the communications team</p> <p>21 issued any notices to DACA recipients about</p> <p>22 renewal under the ELIS system?</p>
<p style="text-align: right;">Page 83</p> <p>1 applications?</p> <p>2 A I don't recall.</p> <p>3 Q Has SCOPS ever discontinued sending</p> <p>4 renewal notices for a period of time since the</p> <p>5 DACA program was initiated?</p> <p>6 A Other than what we have been talking</p> <p>7 about, no.</p> <p>8 Q So when you were informed that -- so</p> <p>9 when you were informed about the decision not to</p> <p>10 rebuild the renewal notice functionality were you</p> <p>11 concerned that DACA applicants might not</p> <p>12 issue their -- apply for renewal notices on time?</p> <p>13 MR. TYLER: Objection, vague.</p> <p>14 THE WITNESS: I don't have a concern one</p> <p>15 way or the other. My concern is to implement the</p> <p>16 policy objectives of the administration.</p> <p>17 BY MR CHEN:</p> <p>18 Q Did you believe -- did you believe that</p> <p>19 as a result of not issuing renewal notices that</p> <p>20 some DACA applicants would not renew on time?</p> <p>21 MR. TYLER: Objection. Vague. Lacks</p> <p>22 foundation.</p>	<p style="text-align: right;">Page 85</p> <p>1 A No -- I guess I'm confused about the</p> <p>2 question. I thought before you were asking about</p> <p>3 whether we had communicated in some way to DACA</p> <p>4 holders.</p> <p>5 Q Besides the website do the</p> <p>6 communications use any other means to communicate</p> <p>7 that DACA recipients had an option for renewal?</p> <p>8 MR. TYLER: Objection. Vague.</p> <p>9 THE WITNESS: I don't know.</p> <p>10 BY MR CHEN:</p> <p>11 Q Do you know who would know?</p> <p>12 A Our Office of Communications. Our</p> <p>13 Office of Customer Service and Public Engagement.</p> <p>14 Q Is that office within SCOPS or is it</p> <p>15 within USCIS?</p> <p>16 A They are components within USCIS.</p> <p>17 Q You mentioned earlier there would be</p> <p>18 development costs to implementing renewal notices</p> <p>19 under the ELIS system, correct? I'm curious, who</p> <p>20 would have added the renewal notice capabilities?</p> <p>21 Was that someone within SCOPS or was it an outside</p> <p>22 vendor?</p>

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<p style="text-align: right;">Page 86</p> <p>1 A It would not have been SCOPS.</p> <p>2 Q Would it have been an outside vendor?</p> <p>3 A I'm not sure of the arrangement of how</p> <p>4 the system gets programmed. It would have been</p> <p>5 the responsibility of our Office of Information</p> <p>6 Technology to make that happen and how they do</p> <p>7 that I do not know.</p> <p>8 Q Do you know if they would have</p> <p>9 contracted out to an outside vendor?</p> <p>10 A I know that they do contract out to</p> <p>11 outside vendors. I don't know how they -- whether</p> <p>12 they contracted out -- you know, what they</p> <p>13 contract out to different vendors or what they do</p> <p>14 in-house.</p> <p>15 Q I want to turn now to your office's</p> <p>16 implementation of the DACA termination. Are you</p> <p>17 familiar with Acting Secretary Duke's September 5,</p> <p>18 2017 memo terminating the DACA program?</p> <p>19 A Yes.</p> <p>20 Q When did you first learn that the DACA</p> <p>21 program would be terminated?</p> <p>22 A Well, I knew that it was a campaign</p>	<p style="text-align: right;">Page 88</p> <p>1 deliberative process privilege and the</p> <p>2 attorney/client privilege instructions for the</p> <p>3 same reasons as previously stated. I won't keep</p> <p>4 repeating it, but that objection stands with</p> <p>5 respect to all deliberative process privilege</p> <p>6 instructions going forward and attorney/client</p> <p>7 privilege instructions going forward.</p> <p>8 BY MR CHEN:</p> <p>9 Q From whom were you made aware of the</p> <p>10 decision to terminate the DACA program?</p> <p>11 MR. TYLER: Vague. Are you referring to</p> <p>12 the final decision?</p> <p>13 BY MR CHEN:</p> <p>14 Q The final decision?</p> <p>15 A I learned of it from reading the memo on</p> <p>16 September 5.</p> <p>17 Q Did you ever receive that memo prior to</p> <p>18 September 5?</p> <p>19 A No.</p> <p>20 Q Did you even receive a draft of that</p> <p>21 memo?</p> <p>22 A No.</p>
<p style="text-align: right;">Page 87</p> <p>1 promise of the president.</p> <p>2 Q When did you learn of the final decision</p> <p>3 to terminate the DACA program?</p> <p>4 A The final decision, when it was issued</p> <p>5 on September 5.</p> <p>6 Q You did not -- you didn't learn about --</p> <p>7 you didn't learn that the DACA program would be</p> <p>8 terminated prior to that date?</p> <p>9 MR. TYLER: Objection. Vague.</p> <p>10 THE WITNESS: I learned that they --</p> <p>11 there was the meeting that I referenced before</p> <p>12 where there were discussions about the wind down</p> <p>13 of the DACA program.</p> <p>14 BY MR CHEN:</p> <p>15 Q At that meeting were you aware that the</p> <p>16 DACA program would be terminated?</p> <p>17 MR. TYLER: Objection. I will direct</p> <p>18 the witness not to answer on grounds of privilege,</p> <p>19 deliberative process privilege, attorney/client</p> <p>20 privilege, attorney work product privilege.</p> <p>21 MR CHEN: I just want to note for the</p> <p>22 record that plaintiffs again object to the</p>	<p style="text-align: right;">Page 89</p> <p>1 Q How did you feel about the decision to</p> <p>2 terminate DACA?</p> <p>3 MR. TYLER: Objection. Vague.</p> <p>4 THE WITNESS: What do you mean by feel?</p> <p>5 BY MR CHEN:</p> <p>6 Q Did you have any reaction?</p> <p>7 MR. TYLER: Objection. Vague.</p> <p>8 BY MR CHEN:</p> <p>9 Q Do you understand the question,</p> <p>10 Mr. Neufeld?</p> <p>11 A I don't know what you're getting at. My</p> <p>12 reaction was I had to implement the direction of</p> <p>13 the memo.</p> <p>14 Q Did you have an opinion about whether</p> <p>15 the termination of DACA was a good thing?</p> <p>16 MR. TYLER: Objection. Calls for a</p> <p>17 personal opinion.</p> <p>18 THE WITNESS: I don't have an opinion</p> <p>19 one way or the other.</p> <p>20 BY MR CHEN:</p> <p>21 Q So you had no opinion about the ending</p> <p>22 of the program you oversaw on a daily basis?</p>

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<p style="text-align: right;">Page 90</p> <p>1 MR. TYLER: Objection. Argumentative, 2 mischaracterizes testimony, vague, and you are 3 asking for a personal opinion. 4 BY MR CHEN: 5 Q Were you ever consulted about the 6 implementation of the DACA termination? 7 A Yes. 8 Q When were you consulted? 9 A Prior to September 5 and then at times 10 after September 5. 11 Q Let's start with consultations prior to 12 September 5. When did those consultations occur? 13 A The first meeting that I recall is the 14 one that I referenced earlier that was shortly 15 before September 5, probably the week before. 16 Q And you said that this was an in-person 17 meeting. Is that correct? 18 A Many of us were gathered in person 19 around the table and there were as I recall two 20 participants by phone. 21 Q Did you bring any documents to this 22 meeting?</p>	<p style="text-align: right;">Page 92</p> <p>1 change its processing procedures in anticipation 2 of the DACA termination? 3 MR. TYLER: Objection. Vague. 4 THE WITNESS: If you mean did we plan 5 for wind down before the September 5 notice, no. 6 BY MR CHEN: 7 Q Did you communicate the decision to 8 terminate DACA to SCOPS employees down the chain 9 of command? 10 A I insured that down the chain of command 11 everyone was aware of the September 5 memo, yes. 12 Q And when did you make that 13 communication? 14 A I don't recall specifically. 15 Q Was that -- 16 A -- It would have been on September 5, 17 but when and how I don't recall specifically. 18 Q Did your office prepare any memoranda 19 concerning the implementation of the DACA 20 termination? 21 A No, I don't believe so. 22 Q Did your office prepare any other</p>
<p style="text-align: right;">Page 91</p> <p>1 A No -- 2 MR. TYLER: -- Objection. Asked and 3 answered. 4 BY MR CHEN: 5 Q What was the nature of the consultation? 6 MR. TYLER: Objection. Direct the 7 witness not to answer on grounds of the 8 deliberative process privilege, the 9 attorney/client privilege, the attorney work 10 product. 11 BY MR CHEN: 12 Q Did you suggest extending the September 13 5 deadline? 14 MR. TYLER: Same objection. Directing 15 the witness not to answer. 16 BY MR CHEN: 17 Q Did you suggest sending notices to 18 individuals to renew? 19 MR. TYLER: Same objection. Directing 20 the witness not to answer. 21 BY MR CHEN: 22 Q Did SCOPS make any preparations to</p>	<p style="text-align: right;">Page 93</p> <p>1 documents? 2 MR. TYLER: Objection. Vague. 3 BY MR CHEN: 4 Q Concerning the implement of the DACA 5 termination? 6 MR. TYLER: Same objection. Vague. 7 THE WITNESS: I don't understand what 8 you mean by documents? 9 BY MR CHEN: 10 Q For example memoranda or reports or 11 notes? 12 MR. TYLER: Same objection. 13 THE WITNESS: I didn't prepare any 14 memorandum following the memo that came from the 15 secretary, no. 16 BY MR CHEN: 17 Q Did SCOPS -- did you make any other 18 preparations for the DACA termination? 19 A No. 20 Q Were you involved in drafting documents 21 to the public about the DACA termination? 22 A I don't recall specifically -- SCOPS</p>

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<p style="text-align: right;">Page 94</p> <p>1 doesn't promulgate external messaging on any</p> <p>2 topic. But it may have been that I saw drafts</p> <p>3 that the Office of Communications or customer</p> <p>4 service and public engagement developed. That</p> <p>5 often happens and probably has happened. I don't</p> <p>6 recall specifically though.</p> <p>7 Q Do you remember when these -- when you</p> <p>8 saw these drafts?</p> <p>9 A No.</p> <p>10 Q Do you remember if it was prior to</p> <p>11 September 5?</p> <p>12 A I didn't see anything drafted on public</p> <p>13 messaging prior to September 5, no.</p> <p>14 Q What were these drafts of, do you</p> <p>15 remember, Mr. Neufeld?</p> <p>16 A What were -- what drafts are we</p> <p>17 referring to?</p> <p>18 Q You mentioned that you saw drafts from</p> <p>19 the Office of Communications?</p> <p>20 A No. I said that it is typical that</p> <p>21 public messaging goes through a vetting process</p> <p>22 and SCOPS is one of many components that would be</p>	<p style="text-align: right;">Page 96</p> <p>1 generally?</p> <p>2 MR. TYLER: Same objection. Lack of</p> <p>3 foundation.</p> <p>4 THE WITNESS: I don't know which</p> <p>5 specific documents you are referring to.</p> <p>6 BY MR CHEN:</p> <p>7 Q You mentioned that other members of your</p> <p>8 office would have seen these drafts of</p> <p>9 communications. Who are those members?</p> <p>10 A Messages relating to DACA in the vetting</p> <p>11 process would normally be reviewed by Alex King,</p> <p>12 branch chief responsible for the DACA portfolio.</p> <p>13 My chief of staff Susan Arroyo.</p> <p>14 Q Anybody else?</p> <p>15 A Carrie Selby the acting deputy associate</p> <p>16 director.</p> <p>17 Q Do you know who else would have reviewed</p> <p>18 these communication drafts?</p> <p>19 A No.</p> <p>20 Q So prior to September 5 besides the</p> <p>21 meeting that you referenced did you participate in</p> <p>22 any other discussions about the termination of the</p>
<p style="text-align: right;">Page 95</p> <p>1 included in the vetting of such messages. Most</p> <p>2 likely I or members of my team were involved in</p> <p>3 messaging that has happened since September 5. I</p> <p>4 don't recall specifically which messages those</p> <p>5 would have been.</p> <p>6 Q Do you recall generally what those</p> <p>7 messages would have been?</p> <p>8 A Well, I'm responding to your question</p> <p>9 about DACA communications, so it would have been</p> <p>10 about DACA communications.</p> <p>11 Q And would these drafts have -- would</p> <p>12 have been website FAQs or news releases? Are</p> <p>13 those the types of drafts of communications you</p> <p>14 are referring to?</p> <p>15 A Yes.</p> <p>16 Q Do you remember what these documents</p> <p>17 said?</p> <p>18 A No.</p> <p>19 MR. TYLER: I'll object. Lack of</p> <p>20 foundation.</p> <p>21 BY MR CHEN:</p> <p>22 Q Do you know what these documents said</p>	<p style="text-align: right;">Page 97</p> <p>1 DACA program?</p> <p>2 A Since the beginning of the DACA program</p> <p>3 we have talked about the end of the DACA program.</p> <p>4 Q Can you explain more? Can you explain</p> <p>5 what you mean by talking about the end of the DACA</p> <p>6 program?</p> <p>7 A I mean that when it was stood up it was</p> <p>8 understood that it was a temporary program and</p> <p>9 that it would likely or maybe terminate or change</p> <p>10 at some point in the future and those</p> <p>11 conversations have been ongoing since June 2012.</p> <p>12 Q How about from since January 20, 2018</p> <p>13 when President Trump came into office and</p> <p>14 September 5, besides that one particular meeting</p> <p>15 you mentioned did you participate in any other</p> <p>16 discussions about the potential termination of the</p> <p>17 DACA program?</p> <p>18 A Other than conversations with others</p> <p>19 about whether it would or would not -- you know,</p> <p>20 what would the president decide to do, no.</p> <p>21 Speculation -- speculative conversations would be</p> <p>22 how I characterize them.</p>

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<p style="text-align: right;">Page 98</p> <p>1 Q Mr. Neufeld, apart from the DACA</p> <p>2 termination memo itself did you receive any other</p> <p>3 instructions from DHS about how to implement the</p> <p>4 DACA termination memo?</p> <p>5 A Not that I recall.</p> <p>6 Q Did you receive any instructions from</p> <p>7 government officials outside of DHS about how to</p> <p>8 implement the DACA termination memo?</p> <p>9 A No.</p> <p>10 Q Did you receive any instruction about</p> <p>11 how to process late initial applications received</p> <p>12 after September 5, 2017?</p> <p>13 A Late initial applications, yes.</p> <p>14 Q What were those instructions?</p> <p>15 A That they would be rejected.</p> <p>16 Q Where in the process would they be</p> <p>17 rejected?</p> <p>18 A At the lockbox.</p> <p>19 Q Did SCOPS receive any instruction about</p> <p>20 how to process renewal applications received after</p> <p>21 October 5, 2017?</p> <p>22 A Yes.</p>	<p style="text-align: right;">Page 100</p> <p>1 leading up to that and then afterwards, so end of</p> <p>2 September, early October.</p> <p>3 Q What about the instructions about</p> <p>4 rejecting late initial applications after</p> <p>5 September 5, 2017? When did you receive those</p> <p>6 instructions?</p> <p>7 A Shortly after September 5, I don't</p> <p>8 recall specifically.</p> <p>9 Q Do you remember if it was on the date of</p> <p>10 September 5 or afterwards?</p> <p>11 A I don't recall.</p> <p>12 Q So was there at any point after</p> <p>13 September 5 when SCOPS received late initial</p> <p>14 applications but did not have any instructions</p> <p>15 about how to process those applications?</p> <p>16 A No.</p> <p>17 Q So what did SCOPS do with late initial</p> <p>18 applications after September 5 but before SCOPS</p> <p>19 received instructions about how to process them?</p> <p>20 A They are currently on hold pending</p> <p>21 rejection.</p> <p>22 Q Were they on hold at the lockboxes?</p>
<p style="text-align: right;">Page 99</p> <p>1 Q And what were those instructions?</p> <p>2 A That they would be generally rejected</p> <p>3 but that we would consider requests for late filed</p> <p>4 renewal requests coming from Puerto Rico or the</p> <p>5 Virgin Islands.</p> <p>6 Q When you refer to generally rejected</p> <p>7 were they also -- would they also have been</p> <p>8 rejected at the lockbox?</p> <p>9 A Yes.</p> <p>10 Q Who provided these instructions?</p> <p>11 A The deputy and the director.</p> <p>12 Q And do you remember what form these</p> <p>13 instructions came in?</p> <p>14 A I remember being told verbally in</p> <p>15 meetings afterwards -- you know, after September</p> <p>16 5.</p> <p>17 Q What were -- do you remember when these</p> <p>18 meetings took place besides that they were after</p> <p>19 September 5?</p> <p>20 A Discussions about how to handle late</p> <p>21 renewal filings after October 5 I don't recall</p> <p>22 specifically, but they happened in the few days</p>	<p style="text-align: right;">Page 101</p> <p>1 A Yes. A small number of people have</p> <p>2 submitted -- I don't know whether they are renewal</p> <p>3 and initials. I know that for sure they include</p> <p>4 initial filings that have been misfiled at --</p> <p>5 directly to one or more of the service centers.</p> <p>6 Rather than sending to the lockboxes they are</p> <p>7 supposed to, people have sent to the wrong</p> <p>8 address.</p> <p>9 Q And how were they handled?</p> <p>10 A They were initially held and then within</p> <p>11 the last couple of days we gave the instruction</p> <p>12 for them to be forwarded to the lockbox.</p> <p>13 Q And at the lockboxes were they then</p> <p>14 subsequently rejected?</p> <p>15 A I don't know whether they have processed</p> <p>16 them for rejection. I think they are still on</p> <p>17 hold, but I'm not sure.</p> <p>18 Q Were you part of any meetings in</p> <p>19 which --</p> <p>20 A Let me -- can I clarify?</p> <p>21 Q Absolutely.</p> <p>22 A I know that the lockbox is holding some</p>

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<p style="text-align: right;">Page 102</p> <p>1 late filings. I don't recall as we sit here</p> <p>2 whether they are only renewal applications or if</p> <p>3 they are renewal requests and initial requests.</p> <p>4 Q So just to clarify, Mr. Neufeld, you are</p> <p>5 saying the lockboxes are currently as of this</p> <p>6 moment holding those late filings?</p> <p>7 A As of my last awareness of the issue,</p> <p>8 yeah, I believe that they were holding some cases.</p> <p>9 Like I said, I don't remember whether they are</p> <p>10 both types of filings or just the renewals.</p> <p>11 Thinking about it more I think it might just be</p> <p>12 the renewals that they are holding.</p> <p>13 Q So does this mean, Mr. Neufeld, that</p> <p>14 immigration officers under SCOPS never saw, never</p> <p>15 evaluated late initial applications received after</p> <p>16 September 5, 2017?</p> <p>17 MR. TYLER: Objection. Vague.</p> <p>18 THE WITNESS: I think I understand.</p> <p>19 Officers are not being -- they are not receiving</p> <p>20 cases that were filed after September 5.</p> <p>21 BY MR CHEN:</p> <p>22 Q Did officers receive applications</p>	<p style="text-align: right;">Page 104</p> <p>1 processing late initial applications was</p> <p>2 formulated?</p> <p>3 A Yes.</p> <p>4 Q When were -- when did those meetings</p> <p>5 occur?</p> <p>6 A Either on September 5 or shortly</p> <p>7 thereafter.</p> <p>8 Q Do you know who was present at those</p> <p>9 meetings?</p> <p>10 A No. There have been many meetings</p> <p>11 involving many people at different times. And</p> <p>12 when I say that there are meetings where this was</p> <p>13 discussed I don't recall any meetings being called</p> <p>14 for the specific purpose of this topic. So the</p> <p>15 reason I'm having trouble recalling is because</p> <p>16 they're not meetings that were called solely for</p> <p>17 this purpose. They're just general meetings that</p> <p>18 we have at the executive level and they included</p> <p>19 these discussions at different times and I don't</p> <p>20 recall the specific dates.</p> <p>21 Q Were there immediate -- were there any</p> <p>22 meetings within -- that you can recall, within the</p>
<p style="text-align: right;">Page 103</p> <p>1 filed -- renewal applications filed after October</p> <p>2 5, 2017?</p> <p>3 A No.</p> <p>4 Q You mentioned earlier that you received</p> <p>5 instructions about how to process applications</p> <p>6 received after September 5 and applications</p> <p>7 received after October 5. Were you in -- were you</p> <p>8 part of any meetings in which these discussions to</p> <p>9 formulate these instructions were made?</p> <p>10 A Yes.</p> <p>11 Q And can you tell me when? When those</p> <p>12 meetings occurred?</p> <p>13 A Related to renewal filings?</p> <p>14 Q Let's start with initial applications</p> <p>15 after September 5 and then we can move to renewal</p> <p>16 filings. So for initial applications?</p> <p>17 MR. TYLER: What's the question, please?</p> <p>18 BY MR CHEN:</p> <p>19 Q Were you part of any meetings in which</p> <p>20 the decision about how to implement -- sorry.</p> <p>21 Were you part of any meetings in which</p> <p>22 the decision to create the instructions for</p>	<p style="text-align: right;">Page 105</p> <p>1 week of September 5 in which instructions about</p> <p>2 how to process late initial applications were</p> <p>3 discussed?</p> <p>4 A There were definitely meetings in which</p> <p>5 we discussed that topic. I don't recall what</p> <p>6 dates or times.</p> <p>7 Q Do you remember how many meetings</p> <p>8 approximately there were?</p> <p>9 A No.</p> <p>10 Q Do you keep a calendar of these</p> <p>11 meetings?</p> <p>12 A Well, as I said they weren't -- they</p> <p>13 weren't meetings for the purpose of discussing how</p> <p>14 to handle late initial filings, so my calendar</p> <p>15 wouldn't reflect that.</p> <p>16 Q But --</p> <p>17 A I have a calendar that has my meetings</p> <p>18 on it. It only will indicate what was discussed</p> <p>19 if the person who scheduled the meeting put a</p> <p>20 subject on the calendar invitation.</p> <p>21 Q You mentioned that this -- these</p> <p>22 meetings were between members of the agency</p>

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<p style="text-align: right;">Page 106</p> <p>1 executive level. Is that correct?</p> <p>2 A Yes.</p> <p>3 Q And who do you mean by members of the</p> <p>4 agency executive level?</p> <p>5 A So that back in September that would</p> <p>6 have been the acting director, the acting deputy</p> <p>7 director, the other associate directors such as</p> <p>8 myself, the chief of the Office of Policy and</p> <p>9 Strategy, the Office of Chief Counsel. Beyond</p> <p>10 that I'm not sure.</p> <p>11 Q Do you remember in these meetings</p> <p>12 whether you were consulted about how late initial</p> <p>13 applications would be processed?</p> <p>14 A I was not consulted about how we would</p> <p>15 process them.</p> <p>16 Q Did you have any meetings regarding how</p> <p>17 late renewal applications would be processed? By</p> <p>18 late renewal applications I mean ones received</p> <p>19 after October 5, 2017.</p> <p>20 A Again, I don't recall any meeting called</p> <p>21 for that purpose. I do know that we had meetings</p> <p>22 in which that was discussed.</p>	<p style="text-align: right;">Page 108</p> <p>1 Q How would you characterize it?</p> <p>2 A How to handle requests that were</p> <p>3 received after October 5 deadline.</p> <p>4 Q Who was involved in these discussions</p> <p>5 about how to handle applications?</p> <p>6 A Tracy Renaud, the acting deputy; James</p> <p>7 McCament, the acting director; Kathy Nuebel,</p> <p>8 Office of Chief Policy and Strategy; Craig Symons,</p> <p>9 Office of Chief Counsel.</p> <p>10 Q So is it true that several days prior to</p> <p>11 the October 5 deadline USCIS, DHS announced that</p> <p>12 it would accept late renewals from Puerto Rico and</p> <p>13 the U S Virgin Islands?</p> <p>14 A I believe so, yes. That we would</p> <p>15 consider requests.</p> <p>16 Q Did SCOPS receive any renewal</p> <p>17 applications filed after October 5 from Puerto</p> <p>18 Rico or the U S Virgin Islands?</p> <p>19 A Yes.</p> <p>20 Q To your knowledge about how many did</p> <p>21 SCOPS receive?</p> <p>22 A Again, we don't receive them directly.</p>
<p style="text-align: right;">Page 107</p> <p>1 Q Do you know what was discussed at those</p> <p>2 meetings?</p> <p>3 A Yes.</p> <p>4 Q And what was the subject of those</p> <p>5 discussions?</p> <p>6 A Well, depending on the meeting it could</p> <p>7 have been any number of things.</p> <p>8 Q Do you recall some examples of the</p> <p>9 subjects that were discussed at those meetings?</p> <p>10 A How we would handle requests for --</p> <p>11 handle filings that were received after October 5</p> <p>12 coming from areas that may have been impacted by</p> <p>13 the hurricanes.</p> <p>14 Q Do you know approximately when those</p> <p>15 discussions occurred?</p> <p>16 A Again, a few days before October 5 and</p> <p>17 then thereafter.</p> <p>18 Q Who was -- who was involved in</p> <p>19 discussions about extending this October 5</p> <p>20 deadline?</p> <p>21 A Well, I wouldn't characterize it as</p> <p>22 extending the October 5 deadline.</p>	<p style="text-align: right;">Page 109</p> <p>1 They would be filed at the lockbox. I'm aware of</p> <p>2 six requests that came in from Puerto Rico after</p> <p>3 October 5 at the lockbox.</p> <p>4 Q And what about from the U S Virgin</p> <p>5 Islands?</p> <p>6 A I don't know whether we had any from the</p> <p>7 U S Virgin Islands.</p> <p>8 Q Do you know who -- do you know who would</p> <p>9 know?</p> <p>10 A Ernest DeStefano, Office of Intake and</p> <p>11 Document Production.</p> <p>12 Q How has SCOPS processed these renewals</p> <p>13 from Puerto Rico or the U S Virgin Islands?</p> <p>14 A The requests are filed at the lockbox.</p> <p>15 The lockbox was instructed by Tracy Renaud who is</p> <p>16 now back to her regular position as the associate</p> <p>17 director for management which oversees the lockbox</p> <p>18 or the Office of Intake and Document Production</p> <p>19 that oversees the lockbox. She gave instruction</p> <p>20 to Ernest DeStefano that those, they should review</p> <p>21 those late filed cases and send them to me for my</p> <p>22 review with a recommendation. And so as of</p>

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<p style="text-align: right;">Page 110</p> <p>1 yesterday I made the decision to go ahead and</p> <p>2 accept those six late filings.</p> <p>3 Q So all six filings from Puerto Rico have</p> <p>4 been accepted?</p> <p>5 A I have given the instruction for them to</p> <p>6 be accepted. I don't know where they are in the</p> <p>7 process.</p> <p>8 Q And by giving the instruction to be</p> <p>9 accepted you mean that they have been granted the</p> <p>10 request for deferred action?</p> <p>11 A No, I did not mean that.</p> <p>12 Q What did you mean?</p> <p>13 A I mean that the lockbox will receive</p> <p>14 them and ingest them into the system for normal</p> <p>15 processing.</p> <p>16 Q And so for these applications an</p> <p>17 immigration officer will review these applications</p> <p>18 in the same way that they reviewed applications</p> <p>19 prior to September 5?</p> <p>20 A Yes.</p> <p>21 Q Is that correct? Besides your personal</p> <p>22 review at the lockbox did this process differ at</p>	<p style="text-align: right;">Page 112</p> <p>1 Q So you did not ask what should be done</p> <p>2 with these late filings until after October 5?</p> <p>3 A I was aware that the agency had</p> <p>4 communicated in some way. I don't remember seeing</p> <p>5 the actual communication that we would consider</p> <p>6 late filed requests from Puerto Rico and the</p> <p>7 Virgin Islands. I don't know -- I don't -- I</p> <p>8 don't recall whether we had conversations or not</p> <p>9 about how that process would work. But when they</p> <p>10 were received then it became -- I needed to know</p> <p>11 so that's when I asked for sure. Not saying that</p> <p>12 there weren't any conversation before that, but</p> <p>13 they weren't decisive if there were any.</p> <p>14 Q Prior to October 5 did you participate</p> <p>15 in any discussions about how to handle late filed</p> <p>16 applications?</p> <p>17 A As I said there were meetings in which</p> <p>18 the topic of late filed applications was</p> <p>19 discussed. I wouldn't necessarily call it being</p> <p>20 consulted. There was awareness that that would</p> <p>21 happen.</p> <p>22 Q And you participated in those meetings?</p>
<p style="text-align: right;">Page 111</p> <p>1 all from how DACA normally processes DACA</p> <p>2 applications prior to September 5?</p> <p>3 MR. TYLER: Objection. Vague.</p> <p>4 THE WITNESS: The only processing that's</p> <p>5 been done is they have been accepted at the</p> <p>6 lock -- they have been received at the lockbox and</p> <p>7 I have given the instruction for them to be</p> <p>8 accepted and processed.</p> <p>9 BY MR CHEN:</p> <p>10 Q Mr. Neufeld, were you consulted in DHS's</p> <p>11 decision to accept on a case by case basis</p> <p>12 renewals from Puerto Rico and U S Virgin Islands</p> <p>13 filed late?</p> <p>14 A No. I wouldn't characterize it as</p> <p>15 consult.</p> <p>16 Q How would you characterize it?</p> <p>17 A I would characterize it as me asking</p> <p>18 what we should do and receiving instruction.</p> <p>19 Q When did you ask what SCOPS should do</p> <p>20 about late filed notices from Puerto Rico?</p> <p>21 A When I became aware that there were late</p> <p>22 filings.</p>	<p style="text-align: right;">Page 113</p> <p>1 A Yes.</p> <p>2 Q Do you know if -- do you know if DHS</p> <p>3 considered waiving or extended the October 5</p> <p>4 deadline for other applicants outside of Puerto</p> <p>5 Rico and the U S Virgin Islands?</p> <p>6 A I do not know.</p> <p>7 Q Do you know who would?</p> <p>8 A Whoever -- no, I don't know that they</p> <p>9 happened so I don't know who would.</p> <p>10 Q In those meetings that you just referred</p> <p>11 to in which you discussed how to handle U S Virgin</p> <p>12 Islands and Puerto Rico applications did you --</p> <p>13 were you aware of discussions of late -- how to</p> <p>14 handle late applications from other locations?</p> <p>15 A No.</p> <p>16 Q Were you ever aware of -- were you ever</p> <p>17 aware of considering extending or waiving the</p> <p>18 October deadline -- October 5 deadline for people</p> <p>19 living in Houston or Florida who were affected by</p> <p>20 the hurricanes?</p> <p>21 A No.</p> <p>22 Q Were you ever aware that extending --</p>

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<p style="text-align: right;">Page 114</p> <p>1 deadline for October 5 for those individuals was</p> <p>2 ever considered?</p> <p>3 A No.</p> <p>4 Q Do you know why DHS did not extend the</p> <p>5 October 5 deadline for other applicants besides</p> <p>6 those living in Puerto Rico and the U S Virgin</p> <p>7 Islands?</p> <p>8 A No.</p> <p>9 Q Did you ever inquire about why the</p> <p>10 October 5 deadline was not extended for other</p> <p>11 applicants?</p> <p>12 A No.</p> <p>13 Q Were you ever concerned that it was not</p> <p>14 extended for other applicants?</p> <p>15 MR. TYLER: Objection. Vague.</p> <p>16 THE WITNESS: My only concern is to</p> <p>17 understand how I'm supposed to process cases that</p> <p>18 are filed.</p> <p>19 BY MR CHEN:</p> <p>20 Q To your knowledge how many eligible</p> <p>21 individuals submitted their DACA renewal between</p> <p>22 September 5 and October 5, 2017?</p>	<p style="text-align: right;">Page 116</p> <p>1 BY MR CHEN:</p> <p>2 Q Are you aware of instances in which</p> <p>3 SCOPS rejected applications filed in that time</p> <p>4 period that should not have been rejected?</p> <p>5 A No.</p> <p>6 Q Are you aware of instances in which</p> <p>7 applications were accepted in that time period but</p> <p>8 should not have been accepted?</p> <p>9 A No.</p> <p>10 Q Mr. Neufeld, when did you first become</p> <p>11 aware that DHS was considering terminating the</p> <p>12 DACA program?</p> <p>13 A I've assumed that they were considering</p> <p>14 that since the election.</p> <p>15 Q What was the basis of that assumption?</p> <p>16 A Media reports.</p> <p>17 Q Beside -- besides the media were there</p> <p>18 any other indications that the DHS was considering</p> <p>19 terminating the DACA program that you were aware</p> <p>20 of?</p> <p>21 MR. TYLER: Objection. Vague.</p> <p>22 THE WITNESS: I'm --</p>
<p style="text-align: right;">Page 115</p> <p>1 A I don't know.</p> <p>2 Q Did you receive any reports about how</p> <p>3 many eligible individuals submitted their DACA</p> <p>4 renewal applications?</p> <p>5 A I have received email messages that --</p> <p>6 indicating a number that are eligible and have not</p> <p>7 filed.</p> <p>8 Q Do you know what that number -- do you</p> <p>9 recall what that number was?</p> <p>10 A The last number I saw was like 22,000.</p> <p>11 Q Do you remember when was that you</p> <p>12 received that last communication?</p> <p>13 A Either Friday or Tuesday.</p> <p>14 Q Of this week?</p> <p>15 A Of this week, yes. And Friday of last</p> <p>16 week.</p> <p>17 Q Between September 25 and October 5, 2017</p> <p>18 are you aware of any errors SCOPS made in</p> <p>19 processing individual DACA renewals?</p> <p>20 MR. TYLER: Objection. Vague.</p> <p>21 THE WITNESS: I'm not aware of any</p> <p>22 errors.</p>	<p style="text-align: right;">Page 117</p> <p>1 (Court reporter requested</p> <p>2 clarification.)</p> <p>3 THE WITNESS: What are you getting at?</p> <p>4 I don't understand.</p> <p>5 BY MR CHEN:</p> <p>6 Q Were there any indications to you</p> <p>7 besides the media that DHS was actively</p> <p>8 considering ending the DACA program?</p> <p>9 A I have assumed that they were from the</p> <p>10 beginning and I recall one sentence in a</p> <p>11 conversation that Kathy Nuebel mentioned that the</p> <p>12 department is -- you know, considering DACA or</p> <p>13 something along those lines.</p> <p>14 Q When did you recall that this sentence</p> <p>15 was said?</p> <p>16 A I don't recall specifically, but I</p> <p>17 would -- it has been several weeks. Like before</p> <p>18 September 5. Probably in August timeframe, I</p> <p>19 would imagine.</p> <p>20 Q Was this sentence communicated to you in</p> <p>21 email?</p> <p>22 A No.</p>

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<p style="text-align: right;">Page 118</p> <p>1 Q In a conversation?</p> <p>2 A Yes.</p> <p>3 Q And were other people involved in that</p> <p>4 conversation?</p> <p>5 A No.</p> <p>6 Q Where did that conversation occur?</p> <p>7 A My office.</p> <p>8 Q Do you remember what else was discussed</p> <p>9 as part of that conversation?</p> <p>10 A No.</p> <p>11 Q Was there anyone else present at the</p> <p>12 time?</p> <p>13 A No.</p> <p>14 Q So prior to September 5, 2017 were you</p> <p>15 aware of any meetings discussing the termination</p> <p>16 of the DACA program?</p> <p>17 MR. TYLER: Objection. Asked and</p> <p>18 answered.</p> <p>19 BY MR CHEN:</p> <p>20 Q You can still answer the question,</p> <p>21 Mr. Neufeld.</p> <p>22 A Can you repeat the question?</p>	<p style="text-align: right;">Page 120</p> <p>1 specifically about setting the October 5, 2017</p> <p>2 deadline for renewal applications?</p> <p>3 A What was the question again?</p> <p>4 Q Were you ever consulted specifically</p> <p>5 about the October 5 -- the decision to set the</p> <p>6 October 5 deadline?</p> <p>7 A I don't think so.</p> <p>8 Q Do you know why the October 5 deadline</p> <p>9 was set?</p> <p>10 A No.</p> <p>11 Q Were you ever consulted about the</p> <p>12 decision to set the March 5, 2018 deadline?</p> <p>13 A I don't believe so.</p> <p>14 Q Do you know why that date was set?</p> <p>15 A I don't.</p> <p>16 Q Did you ever have discussions with other</p> <p>17 government officials about the -- let's start with</p> <p>18 are you aware of the letter from the Texas</p> <p>19 Attorney General's Office sent on June 29 about</p> <p>20 requesting that the government rescind the DACA</p> <p>21 program?</p> <p>22 A No. Had a general awareness that there</p>
<p style="text-align: right;">Page 119</p> <p>1 Q Prior to September 5 were you aware of</p> <p>2 any meetings discussing the decision to terminate</p> <p>3 the DACA program?</p> <p>4 A I was aware of the one meeting that I</p> <p>5 attended.</p> <p>6 Q Was -- were there other meetings that</p> <p>7 you were aware of?</p> <p>8 A No.</p> <p>9 Q Were you aware of meetings that you did</p> <p>10 not attend?</p> <p>11 MR. TYLER: I'll object on grounds of</p> <p>12 vagueness.</p> <p>13 THE WITNESS: I'm not aware of specific</p> <p>14 meetings. I have an assumption that there were</p> <p>15 conversations happening at the department level.</p> <p>16 BY MR CHEN:</p> <p>17 Q Were those conversations ever</p> <p>18 communicated to you?</p> <p>19 A No.</p> <p>20 Q What was the basis of that assumption?</p> <p>21 A Media reports.</p> <p>22 Q Were you ever consulted about --</p>	<p style="text-align: right;">Page 121</p> <p>1 were issues going on with the court. I don't</p> <p>2 recall specifically a letter being issued by a --</p> <p>3 Q -- Are you aware that the state of Texas</p> <p>4 sent a letter asking the federal -- asking the</p> <p>5 Department of Justice and DHS to terminate the</p> <p>6 DACA programs?</p> <p>7 A No.</p> <p>8 Q Mr. Neufeld, were you aware of -- were</p> <p>9 you aware that the state of Texas had requested</p> <p>10 that the Department of Justice and the Department</p> <p>11 of Homeland Security terminate the DACA program?</p> <p>12 MR. TYLER: I'll object to counsel's</p> <p>13 characterization of the Texas letter.</p> <p>14 THE WITNESS: I'm aware that in the</p> <p>15 litigation there basically was a threat made that</p> <p>16 DACA would be added to the litigation if the DACA</p> <p>17 program had not been terminated by a certain</p> <p>18 deadline and I don't recall what it was.</p> <p>19 BY MR CHEN:</p> <p>20 Q So did you discuss that threat as you</p> <p>21 characterized it with other individuals in DHS?</p> <p>22 A I'm sure it was mentioned. We didn't</p>

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<p style="text-align: right;">Page 122</p> <p>1 discuss in a meaningful way what that -- how that</p> <p>2 should impact my operations.</p> <p>3 Q Did you discuss it in any other</p> <p>4 capacity?</p> <p>5 A No. What I would say is there was</p> <p>6 speculation in conversations I had with colleagues</p> <p>7 about whether that would back prompt something</p> <p>8 from the department or the president.</p> <p>9 Q Did you have other conversations?</p> <p>10 A No.</p> <p>11 Q Are you aware of Attorney General</p> <p>12 Session's letter recommending to Secretary Duke --</p> <p>13 Acting Secretary Duke, recommending that DACA be</p> <p>14 terminated?</p> <p>15 A Yes.</p> <p>16 Q Did you ever have discussions about that</p> <p>17 letter with other individuals in DHS?</p> <p>18 MR. TYLER: I'll object to the extent</p> <p>19 that the question calls for a revelation of the</p> <p>20 consultive discussions, discussions with counsel</p> <p>21 in regard to that subject matter.</p> <p>22</p>	<p style="text-align: right;">Page 124</p> <p>1 that counsel is seeking or his question seeks</p> <p>2 information about what was discussed at this</p> <p>3 consultative meeting that Mr. Neufeld has</p> <p>4 testified in which counsel were present and which</p> <p>5 the termination of DACA was discussed, if that</p> <p>6 touches upon that meeting, that discussion then</p> <p>7 I'm directing him not to answer the question. If</p> <p>8 you are asking did he have water cooler</p> <p>9 conversations with colleagues at SCOPS about the</p> <p>10 AG's letter he can respond to that question.</p> <p>11 BY MR CHEN:</p> <p>12 Q Did you ever discuss the termination of</p> <p>13 DACA with Acting Secretary Duke?</p> <p>14 A No.</p> <p>15 Q Did you ever discuss the termination of</p> <p>16 DACA with acting director of USCIS James McCament?</p> <p>17 A Yes.</p> <p>18 Q When did you have these discussions?</p> <p>19 A Again, the ending of DACA has been a</p> <p>20 topic of conversation since DACA was instituted</p> <p>21 and James McCament has been involved in a</p> <p>22 leadership position of some sort for about that</p>
<p style="text-align: right;">Page 123</p> <p>1 BY MR CHEN:</p> <p>2 Q So were you -- did you have discussions</p> <p>3 with attorney general -- about the -- about the</p> <p>4 letter with other individuals in DHS?</p> <p>5 MR. TYLER: I will try to be clear with</p> <p>6 my objection. To the extent that calls for an</p> <p>7 answer about what might have occurred at the</p> <p>8 meetings that Mr. Neufeld has testified about. If</p> <p>9 it calls for a response that would inform you of</p> <p>10 the subject matter of that meeting, what was</p> <p>11 discussed, what factors were discussed I'm</p> <p>12 directing the witness not to answer that question.</p> <p>13 BY MR CHEN:</p> <p>14 Q To be clear, I'm asking specifically</p> <p>15 whether you have or have not discussed that, the</p> <p>16 letter with individuals within DHS?</p> <p>17 MR. TYLER: Same objection applies.</p> <p>18 MR. WISHNIE: So that the record is</p> <p>19 clear between objection and instruction, you are</p> <p>20 instructing him not to answer the yes or no</p> <p>21 question?</p> <p>22 MR. TYLER: I'm asking to the extent</p>	<p style="text-align: right;">Page 125</p> <p>1 whole process, that whole time period.</p> <p>2 Q When did James McCament become acting</p> <p>3 director of USCIS?</p> <p>4 A I don't remember the exact timeframe.</p> <p>5 It was earlier this year.</p> <p>6 Q Did you have -- did you have meetings</p> <p>7 with Mr. McCament about discussing the termination</p> <p>8 of the DACA program?</p> <p>9 A Yes.</p> <p>10 Q So where -- when did those meetings</p> <p>11 occur? Let's start with any specific meetings</p> <p>12 that you remember?</p> <p>13 A Probably the most recent meeting would</p> <p>14 have been my biweekly check-in with him in which</p> <p>15 the topic of the DACA wind down was discussed.</p> <p>16 Q Were there meetings prior to September</p> <p>17 5, 2017 in which you discussed the decision to</p> <p>18 terminate DACA with Mr. McCament?</p> <p>19 A Yes.</p> <p>20 Q Let's start from that timeline. Can</p> <p>21 you -- what was -- let's start with the specific</p> <p>22 meetings you might remember with Mr. McCament. Do</p>

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<p style="text-align: right;">Page 126</p> <p>1 you know when those meetings occurred?</p> <p>2 A Well, the most significant meeting where</p> <p>3 it was talked in a real way about something that</p> <p>4 was likely or possible to happen was the meeting</p> <p>5 that I have already referenced. It happened the</p> <p>6 week before the announcement. During that Labor</p> <p>7 Day weekend there were telephone conversations</p> <p>8 about that topic as well.</p> <p>9 Q And who was part of those -- who were</p> <p>10 part of those telephone conversations?</p> <p>11 A The same individuals that I referenced</p> <p>12 as being in the meeting that took place the week</p> <p>13 before.</p> <p>14 Q And were these follow up conversations</p> <p>15 from that first meeting that you mentioned?</p> <p>16 A Yes.</p> <p>17 Q What was the subject of discussion of</p> <p>18 those meetings?</p> <p>19 A The wind down of DACA.</p> <p>20 Q So at that point had you been aware that</p> <p>21 DHS had already decided to terminate the DACA</p> <p>22 program?</p>	<p style="text-align: right;">Page 128</p> <p>1 present about the decision to terminate the DACA</p> <p>2 program?</p> <p>3 MR. TYLER: Again, objection. Vague.</p> <p>4 THE WITNESS: There wasn't a decision</p> <p>5 until September 5 as far as I know. And so I</p> <p>6 wouldn't characterize any meeting before then as</p> <p>7 being about the decision, the final decision.</p> <p>8 BY MR CHEN:</p> <p>9 Q Let me rephrase that. Were you aware of</p> <p>10 any -- do you remember any meetings between you</p> <p>11 and Mr. McCament besides the two conversations</p> <p>12 that you mentioned about the consideration to</p> <p>13 terminate the DACA program?</p> <p>14 A I remember not specific meetings. I</p> <p>15 remember many references to the possible</p> <p>16 termination of DACA repeatedly prior to September</p> <p>17 5, but not meetings for the purpose of discussing</p> <p>18 how to do that or what options might be or</p> <p>19 anything along those lines.</p> <p>20 Q Did you ever discuss consideration of</p> <p>21 the DACA termination with anyone outside of DHS?</p> <p>22 MR. TYLER: Objection. Vague.</p>
<p style="text-align: right;">Page 127</p> <p>1 MR. TYLER: Objection. Vague.</p> <p>2 Argumentative.</p> <p>3 THE WITNESS: I will -- it needs to be</p> <p>4 clear that I didn't know about a decision, a final</p> <p>5 decision until the final decision was issued on</p> <p>6 September 5.</p> <p>7 BY MR CHEN:</p> <p>8 Q So when you referenced -- when you</p> <p>9 characterized discussion about the wind down of</p> <p>10 the DACA program what did you mean by wind down?</p> <p>11 MR. TYLER: I'm going to direct the</p> <p>12 witness not to answer. He's obviously referring</p> <p>13 to the consultative process to which we've</p> <p>14 objected before. So I'm going to direct the</p> <p>15 witness not to answer on the same privileges;</p> <p>16 attorney/client, deliberative process privilege,</p> <p>17 attorney work product privilege.</p> <p>18 BY MR CHEN:</p> <p>19 Q So besides the one meeting that you</p> <p>20 referred to a week before September 5 as well as</p> <p>21 the phone conversations were there any other</p> <p>22 meetings in which you and Mr. McCament were</p>	<p style="text-align: right;">Page 129</p> <p>1 BY MR CHEN:</p> <p>2 Q Do you understand the question.</p> <p>3 Mr. Neufeld?</p> <p>4 A Yes. And I can answer it, yes.</p> <p>5 Q Did you discover -- did you ever discuss</p> <p>6 the consideration of the termination of DACA</p> <p>7 within the Department of Justice?</p> <p>8 A I don't know whether the individual that</p> <p>9 I referenced previously as being on the</p> <p>10 telephone -- I don't know whether he worked for</p> <p>11 DOJ or worked for the department or any other. I</p> <p>12 know he was a government employee, but I don't</p> <p>13 know whether he was DHS or DOJ or somebody else.</p> <p>14 Q Was there anyone else potentially within</p> <p>15 DOJ that -- or you believe within DOJ that you</p> <p>16 discussed considering the termination of DACA?</p> <p>17 A No.</p> <p>18 Q Did you ever discuss the consideration</p> <p>19 to termination DACA with anyone within the White</p> <p>20 House?</p> <p>21 A No.</p> <p>22 Q So you previously said that you had</p>

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<p style="text-align: right;">Page 130</p> <p>1 discussed the consideration of termination of DACA</p> <p>2 with people outside of DHS. Who are those</p> <p>3 individuals?</p> <p>4 MR. TYLER: Objection. I believe you</p> <p>5 mischaracterized testimony.</p> <p>6 THE WITNESS: I have had conversations</p> <p>7 since the beginning of DACA about the DACA program</p> <p>8 and its likely end at some point with neighbors,</p> <p>9 relatives, many people.</p> <p>10 BY MR CHEN:</p> <p>11 Q Did you discuss the term -- the</p> <p>12 considerations to terminate DACA with individuals</p> <p>13 within the government besides those that you just</p> <p>14 previously mentioned?</p> <p>15 A Again, I have numerous colleagues and</p> <p>16 the possibility of the termination of DACA was</p> <p>17 widely discussed, but not in a planning sense.</p> <p>18 More in terms of its news, it would affect our</p> <p>19 operations and just a topic of conversation like</p> <p>20 that. Not for planning purposes or deliberating</p> <p>21 how to do it.</p> <p>22 Q Were the reasons for the DACA</p>	<p style="text-align: right;">Page 132</p> <p>1 A How about this. I'm not aware of any</p> <p>2 other reasons besides those that are stated in the</p> <p>3 memo.</p> <p>4 Q Did you ever inquire into the reasons</p> <p>5 why DACA was terminated?</p> <p>6 A No. It was clear in the memo.</p> <p>7 Q Did you ever inquire whether there were</p> <p>8 other reasons besides those in the memo?</p> <p>9 A No.</p> <p>10 Q Besides the memo were there reasons for</p> <p>11 the October 5 deadline ever communicated to you?</p> <p>12 A No.</p> <p>13 Q And besides the memo were there reasons</p> <p>14 for the March 5 deadline ever communicated to you</p> <p>15 --</p> <p>16 A -- No.</p> <p>17 Q And did you ever inquire into the</p> <p>18 reasons other than those in the memo?</p> <p>19 A No.</p> <p>20 Q About those deadlines?</p> <p>21 A No.</p> <p>22 MR. WISHNIE: Why don't we go off of the</p>
<p style="text-align: right;">Page 131</p> <p>1 termination communicated to you?</p> <p>2 A In the memo.</p> <p>3 Q Were they communicated to you in any</p> <p>4 other way?</p> <p>5 MR. TYLER: I will again object to the</p> <p>6 extent that you are trying to delve into</p> <p>7 consultative conversations that the witness has</p> <p>8 already testified to in which amongst other</p> <p>9 participants counsel were present. I going to</p> <p>10 direct that he not answer that question on grounds</p> <p>11 of privilege. Same privileges that I have been</p> <p>12 citing to.</p> <p>13 BY MR CHEN:</p> <p>14 Q Just to be clear, Mr. Neufeld, I'm</p> <p>15 simply asking whether the reasons were</p> <p>16 communicated to you or not, besides those in the</p> <p>17 memo, not the contents of those reasons.</p> <p>18 MR. TYLER: I'll object on vagueness. I</p> <p>19 don't know what time we are now talking about.</p> <p>20 BY MR CHEN:</p> <p>21 Q My question applies to any time whether</p> <p>22 the reasons for the DACA termination?</p>	<p style="text-align: right;">Page 133</p> <p>1 record for a moment?</p> <p>2 MR. TYLER: Off record.</p> <p>3 THE VIDEOGRAPHER: We are going off of</p> <p>4 the record. This is the end of media unit</p> <p>5 number 2. The time is 11:59 p.m.</p> <p>6 (The proceeding recessed from 11:59 a.m.</p> <p>7 to 12:57 p.m.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record. This is the beginning of media unit</p> <p>10 number 3 and it's 12:57 p.m.</p> <p>11 BY MR CHEN:</p> <p>12 Q Mr. Neufeld, I wanted to circle back to</p> <p>13 the DACA application process a little bit prior to</p> <p>14 September 5, 2017. In your experience as</p> <p>15 associate director of SCOPS are you aware of how</p> <p>16 many DACA applicants apply for renewal, how many</p> <p>17 file for renewal after they fall out of status, in</p> <p>18 other words after their applications expire?</p> <p>19 A I don't know the number.</p> <p>20 Q Do you know generally whether it is --</p> <p>21 what percentage or how many individuals?</p> <p>22 A I know -- just to be clear you are</p>

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<p style="text-align: right;">Page 134</p> <p>1 asking about how many people apply for renewal</p> <p>2 after their original period expired?</p> <p>3 Q Yes.</p> <p>4 A It has fluctuated. I have seen reports.</p> <p>5 I don't remember the specifics of them. I know</p> <p>6 that it is at times it has been -- I think it has</p> <p>7 been as high as maybe 60 percent that were filing</p> <p>8 within -- you know, within, ahead of time. And</p> <p>9 then other times it has been much less. In other</p> <p>10 words where the majority of our receipts in a</p> <p>11 particular month might be from folks where their</p> <p>12 status had already expired.</p> <p>13 Q And what is -- what are these reports</p> <p>14 that you are referring to?</p> <p>15 A These are weekly reports that are</p> <p>16 produced by a contractor who no longer works with</p> <p>17 us but used to work with us. And now it is</p> <p>18 somebody in my shop.</p> <p>19 Q And they -- these are -- are they</p> <p>20 updates about the number of DACA applicants, DACA</p> <p>21 applications that are being processed by SCOPS?</p> <p>22 A Yes. It's -- it's a weekly report</p>	<p style="text-align: right;">Page 136</p> <p>1 recall who it got assigned to. I know that it</p> <p>2 comes under Bob Baco (phonetic) who is the branch</p> <p>3 chief for the team that compiles all of our</p> <p>4 reports.</p> <p>5 Q Do you know what office that's within in</p> <p>6 SCOPS or is there not a particular office that</p> <p>7 responsibility belongs to?</p> <p>8 A I don't remember what the title of the</p> <p>9 branch is. We have a branch that is responsible</p> <p>10 for pulling reports together out of the systems</p> <p>11 that we process cases in.</p> <p>12 Q And are you aware of any data about the</p> <p>13 number of DACA renewal applicants that file their</p> <p>14 renewal notices within two weeks of the deadline</p> <p>15 for when their statuses would expire?</p> <p>16 A I have not to my recollection seen any</p> <p>17 reports like that.</p> <p>18 Q Do you know generally how many people --</p> <p>19 how many DACA applicants usually file for renewal</p> <p>20 within two weeks or within a few weeks before</p> <p>21 their application, their statuses expire?</p> <p>22 A I don't know.</p>
<p style="text-align: right;">Page 135</p> <p>1 that -- on renewals and initials and it provides a</p> <p>2 bunch of different data points with respect to the</p> <p>3 receipts and pending cases. I don't think there</p> <p>4 is anything on it that is about -- you know, those</p> <p>5 who have not applied, that sort of thing. It is</p> <p>6 about the case work that we have either received</p> <p>7 and have pending or recently completed.</p> <p>8 Q Who are those -- so you said previously</p> <p>9 it used to be an independent contractor. Do you</p> <p>10 remember the name of the contractor?</p> <p>11 A Oh, it's been different people in that</p> <p>12 role.</p> <p>13 Q Is it -- when -- and then you said has</p> <p>14 transitioned to someone in your office. When did</p> <p>15 that transition occur?</p> <p>16 A We ended the contract and took that work</p> <p>17 in-house probably maybe two months ago, month and</p> <p>18 a half, something like that.</p> <p>19 Q And who in your -- who in SCOPS had been</p> <p>20 producing these reports after transitioning</p> <p>21 in-house?</p> <p>22 A The name of the individual, I don't</p>	<p style="text-align: right;">Page 137</p> <p>1 Q So the reports about individuals who</p> <p>2 file for renewal applications after their statuses</p> <p>3 expire, was that information ever known to DHS</p> <p>4 leadership?</p> <p>5 A I didn't pass it on to them. I shared</p> <p>6 those weekly reports, not necessarily every week</p> <p>7 but fairly frequently with my leadership, the</p> <p>8 deputy, and the director. And I'm not sure who</p> <p>9 they may have passed that along to.</p> <p>10 Q And were you sharing these reports</p> <p>11 around -- did you ever stop sharing these reports?</p> <p>12 A Yes. But only for a short period of</p> <p>13 time.</p> <p>14 Q But -- so, have you been sharing these</p> <p>15 reports with DHS leadership or the leadership that</p> <p>16 you specifically mentioned up until September 5,</p> <p>17 2017?</p> <p>18 A Yes.</p> <p>19 Q Regarding the DACA termination and the</p> <p>20 decision to termination DACA were you ever</p> <p>21 consulted about the feasibility of the October 5</p> <p>22 deadline?</p>

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<p style="text-align: right;">Page 138</p> <p>1 MR. TYLER: Objection. Vague.</p> <p>2 THE WITNESS: If by consultation you</p> <p>3 mean operationally -- I guess that would be my</p> <p>4 question. What do you mean by feasibility?</p> <p>5 BY MR CHEN:</p> <p>6 Q Before September 5 did anyone from DHS</p> <p>7 leadership ask you whether the -- ask whether the</p> <p>8 October 5 deadline would be feasible?</p> <p>9 MR. TYLER: I'll object. Vague.</p> <p>10 THE WITNESS: It's still kind of back to</p> <p>11 what you mean by feasible.</p> <p>12 BY MR CHEN:</p> <p>13 Q Did anybody ask whether it would be</p> <p>14 possible for your office to process renewal</p> <p>15 applications who were eligible to be renewed by</p> <p>16 October 5?</p> <p>17 A No.</p> <p>18 Q Did anyone inquire into the operational</p> <p>19 difficulty of or the operational difficulty about</p> <p>20 processing those renewal applications by October</p> <p>21 5?</p> <p>22 MR. TYLER: Object. Assumes facts not</p>	<p style="text-align: right;">Page 140</p> <p>1 A I think from Tracy Renaud. It was when</p> <p>2 she was -- well, we have had this transition again</p> <p>3 where she used to be our acting deputy and now she</p> <p>4 is the associate director for management. But</p> <p>5 either way she would be over the Office of Intake</p> <p>6 and Document Production. She is the one I think</p> <p>7 who has mentioned that number as the number that</p> <p>8 had been -- come in --</p> <p>9 Q And just --</p> <p>10 A Since October 5.</p> <p>11 Q And just to clarify, from October 5</p> <p>12 until what date did you hear that this number was</p> <p>13 for?</p> <p>14 A Last week sometime.</p> <p>15 Q Do you know about how many late renewal</p> <p>16 applications were from the state of Texas?</p> <p>17 A No.</p> <p>18 Q Okay. Do you know how many applications</p> <p>19 would have been from the state of Florida?</p> <p>20 A No.</p> <p>21 Q Do you know who might know this</p> <p>22 information?</p>
<p style="text-align: right;">Page 139</p> <p>1 in evidence.</p> <p>2 THE WITNESS: No.</p> <p>3 BY MR CHEN:</p> <p>4 Q Did anybody consult you about the</p> <p>5 feasibility of the March 5 deadline?</p> <p>6 A No.</p> <p>7 Q So after September 5 how many renewal,</p> <p>8 late -- sorry.</p> <p>9 After October 5, 2017 how many late</p> <p>10 renewal notices to your knowledge did the USCIS</p> <p>11 receive?</p> <p>12 MR. TYLER: Objection. Vague.</p> <p>13 THE WITNESS: Do you mean how many</p> <p>14 requests were filed after the deadline?</p> <p>15 BY MR CHEN:</p> <p>16 Q I'm sorry, yes. So renewal requests.</p> <p>17 How many -- to your knowledge how many were filed</p> <p>18 after the renewal deadline on October 5?</p> <p>19 A I don't know for certain. I believe</p> <p>20 that I have heard the number 4,000 have been filed</p> <p>21 after.</p> <p>22 Q And where did you hear that from?</p>	<p style="text-align: right;">Page 141</p> <p>1 A Perhaps the Office of Intake and</p> <p>2 Document Production.</p> <p>3 Q Mr. Neufeld, you stated before that you</p> <p>4 began your role as associate director of SCOPS</p> <p>5 around 2010. Is that correct?</p> <p>6 A That's correct.</p> <p>7 Q And the DACA program was implemented in</p> <p>8 2012. Is that correct?</p> <p>9 A Yes.</p> <p>10 Q So did you hold your current position</p> <p>11 when DACA was first implemented?</p> <p>12 A Yes.</p> <p>13 Q Were you involved in this decision to</p> <p>14 initiate the DACA program?</p> <p>15 A No.</p> <p>16 Q Were you involved in the implementation</p> <p>17 of the DACA program?</p> <p>18 A Yes.</p> <p>19 Q What was the nature of your involvement</p> <p>20 in that implementation?</p> <p>21 A Ultimately I oversee the operations that</p> <p>22 adjudicate those benefit requests. In the initial</p>

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<p style="text-align: right;">Page 142</p> <p>1 stand up of the program I wasn't involved in</p> <p>2 deciding whether or when to stand it up. But when</p> <p>3 the memo came out we had 60 days to stand it up</p> <p>4 and I was part of the management team that</p> <p>5 collectively worked out the process that we would</p> <p>6 employ.</p> <p>7 Q Did you ever -- were you ever consulted</p> <p>8 about the decision to start to initiate the DACA</p> <p>9 program prior to its initiation?</p> <p>10 A No.</p> <p>11 Q Do you remember if before -- do you</p> <p>12 remember if around 2010 you co-authored a memo to</p> <p>13 the director of USCIS recommending that DHS grant</p> <p>14 deferred action to certain undocumented</p> <p>15 immigrants?</p> <p>16 A I remember not co-authoring that memo.</p> <p>17 Q You remember specifically not</p> <p>18 co-authoring that memo?</p> <p>19 A Yes.</p> <p>20 Q Do you know then why your name is on it?</p> <p>21 A Because whoever drafted it put my name</p> <p>22 on it.</p>	<p style="text-align: right;">Page 144</p> <p>1 temporary protected status would allow for folks</p> <p>2 to adjust status even if they had entered</p> <p>3 illegally.</p> <p>4 Q Did the memo site any benefits to the</p> <p>5 grant of deferred action to these young</p> <p>6 immigrants?</p> <p>7 A I don't remember.</p> <p>8 Q Did you authorize that memo?</p> <p>9 A No.</p> <p>10 Q Did that memo ultimately recommend that</p> <p>11 DHS should grant deferred action to certain young</p> <p>12 immigrants?</p> <p>13 A I don't remember. That memo was a</p> <p>14 draft, is the important thing to keep in mind.</p> <p>15 Q Is it your understanding that there are</p> <p>16 policy benefits to the DACA program?</p> <p>17 MR. TYLER: Objection. Vague. Asking</p> <p>18 for personal opinion.</p> <p>19 BY MR CHEN:</p> <p>20 Q You can still answer the question,</p> <p>21 Mr. Neufeld.</p> <p>22 A I'm aware that the people who decided to</p>
<p style="text-align: right;">Page 143</p> <p>1 Q Did you have any involvement in the</p> <p>2 creation of that memo?</p> <p>3 A No.</p> <p>4 Q Do you remember -- do you know why</p> <p>5 whoever drafted it put your name on that memo?</p> <p>6 A No.</p> <p>7 Q Are you aware of the contents of that</p> <p>8 memo at all?</p> <p>9 A Yes, but I've forgotten most of it. But</p> <p>10 I'm aware.</p> <p>11 Q What do you remember from that memo?</p> <p>12 A It enumerated many options for the</p> <p>13 administration to consider with respect to policy</p> <p>14 objectives that they had.</p> <p>15 Q And what were some of the options, do</p> <p>16 you remember?</p> <p>17 A Something along the lines of the DACA</p> <p>18 program was referenced. I don't think it was</p> <p>19 called DACA. But deferred action for childhood</p> <p>20 arrivals -- not called that, but I think that was</p> <p>21 in there. There was an option to embrace some</p> <p>22 court decisions saying that TPS -- a grant of</p>	<p style="text-align: right;">Page 145</p> <p>1 institute it felt that there were benefits in</p> <p>2 doing so.</p> <p>3 Q What do you think?</p> <p>4 MR. TYLER: Same objection. Vague.</p> <p>5 Personal -- asks for personal opinion.</p> <p>6 THE WITNESS: Are you really asking my</p> <p>7 personal opinion about DACA?</p> <p>8 BY MR CHEN:</p> <p>9 Q I'm interested in what you think about</p> <p>10 the policy benefits of the DACA program?</p> <p>11 A I think that it is unclear what</p> <p>12 ultimately the benefits are. Clearly it benefits</p> <p>13 individuals who receive it for the short run. I</p> <p>14 haven't formed an opinion on whether it is good</p> <p>15 for the country or not.</p> <p>16 Q Do you know if these -- the benefits</p> <p>17 that you said other people had considered were</p> <p>18 considered in the decision to terminate the DACA</p> <p>19 program?</p> <p>20 MR. TYLER: I'm sorry. Could you repeat</p> <p>21 that question?</p> <p>22</p>

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<p style="text-align: right;">Page 146</p> <p>1 BY MR CHEN:</p> <p>2 Q Do you know if the benefits that you</p> <p>3 were aware of, were they considered in the</p> <p>4 decision to terminate the DACA program?</p> <p>5 MR. TYLER: Objection. It's vague.</p> <p>6 Lack of foundation.</p> <p>7 THE WITNESS: I don't know what was</p> <p>8 considered in the termination of the program.</p> <p>9 BY MR CHEN:</p> <p>10 Q In your tenure as associate director of</p> <p>11 SCOPS are you aware of any documents of DHS</p> <p>12 concerning the legality of the DACA program?</p> <p>13 A I'm aware of the Sessions letter or memo</p> <p>14 or whatever it was that cited that.</p> <p>15 Q Any other documents that you are aware</p> <p>16 of?</p> <p>17 A No.</p> <p>18 Q Are you aware of any documents produced</p> <p>19 by the Department of Justice about the legality of</p> <p>20 the DACA program?</p> <p>21 A No.</p> <p>22 Q Are you aware of any documents produced</p>	<p style="text-align: right;">Page 148</p> <p>1 Q You mentioned previously that you have</p> <p>2 spoken with acting director of the USCIS James</p> <p>3 McCament about the DACA termination. Correct?</p> <p>4 A Yes.</p> <p>5 Q In those conversations has he ever</p> <p>6 referred to DACA recipients as criminals?</p> <p>7 A As a population, no.</p> <p>8 Q Has he ever referred to individual DACA</p> <p>9 recipients as criminals?</p> <p>10 MR. TYLER: Objection. Vague.</p> <p>11 THE WITNESS: I will say that all of us</p> <p>12 who are managing the program are aware that some</p> <p>13 applicants are criminals and we have terminated</p> <p>14 DACA -- people with DACA because of criminal</p> <p>15 activity and that has definitely been discussed.</p> <p>16 BY MR CHEN:</p> <p>17 Q Has he ever suggested that DACA</p> <p>18 recipients don't deserve to be in this country?</p> <p>19 A No.</p> <p>20 Q Do you understand the term racial slur?</p> <p>21 A As is commonly meant, yes.</p> <p>22 MR. TYLER: I'll still object on grounds</p>
<p style="text-align: right;">Page 147</p> <p>1 by the White House about the legality of the</p> <p>2 program?</p> <p>3 A No.</p> <p>4 Q Are you aware of any communications</p> <p>5 between DHS and the state of Texas related to the</p> <p>6 termination of the DACA program?</p> <p>7 MR. TYLER: Objection. Vague.</p> <p>8 THE WITNESS: I'm not aware of any</p> <p>9 communication between the department and the state</p> <p>10 of Texas.</p> <p>11 BY MR CHEN:</p> <p>12 Q What about the state attorney general of</p> <p>13 Texas?</p> <p>14 MR. TYLER: Same objection.</p> <p>15 THE WITNESS: I don't have visibility to</p> <p>16 communications between the department and the</p> <p>17 state of Texas, the attorney general.</p> <p>18 BY MR CHEN:</p> <p>19 Q In any communications about the DACA</p> <p>20 termination has anyone said anything about</p> <p>21 immigrants that was offensive?</p> <p>22 A No.</p>	<p style="text-align: right;">Page 149</p> <p>1 of vagueness.</p> <p>2 BY MR CHEN:</p> <p>3 Q Has he ever used a racial slur in these</p> <p>4 conversations?</p> <p>5 A No.</p> <p>6 Q Has he ever referred to DACA recipients</p> <p>7 as a population by race?</p> <p>8 A No.</p> <p>9 Q Has he ever referred to individual DACA</p> <p>10 recipients by race?</p> <p>11 MR. TYLER: Objection. Vague.</p> <p>12 THE WITNESS: When there are discussions</p> <p>13 about particular cases where the individual is</p> <p>14 from might be part of the facts that are</p> <p>15 considered -- not facts that are considered, but</p> <p>16 we would know that somebody is from Mexico or from</p> <p>17 wherever in discussing that.</p> <p>18 BY MR CHEN:</p> <p>19 Q And has he ever mentioned reasons for</p> <p>20 terminating DACA besides the legality of the DACA</p> <p>21 program?</p> <p>22 A No.</p>

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<p style="text-align: right;">Page 150</p> <p>1 Q And you mentioned previously that you</p> <p>2 have been in meetings and conversations with Gene</p> <p>3 Hamilton about the DACA program. Is that correct?</p> <p>4 A Yes.</p> <p>5 Q And so, has he ever referred to DACA</p> <p>6 recipients as criminals?</p> <p>7 MR. TYLER: I'll object again to the</p> <p>8 extent he has identified Mr. Hamilton as having</p> <p>9 taken part in this meeting that the substance of</p> <p>10 which we are objecting to on three privileges. So</p> <p>11 to the extent you are asking him to go back to</p> <p>12 that meeting and report what was said by whom I'm</p> <p>13 going to object on grounds of deliberative process</p> <p>14 privilege, attorney/client privilege, and attorney</p> <p>15 work product privilege.</p> <p>16 MR. WISHNIE: And you are also going to</p> <p>17 instruct the witness? Is that right? I want to</p> <p>18 make a clear record here for the court.</p> <p>19 MR. TYLER: -- Yes.</p> <p>20 BY MR CHEN:</p> <p>21 Q Outside of that meeting, same question,</p> <p>22 have you heard Mr. Hamilton refer to DACA</p>	<p style="text-align: right;">Page 152</p> <p>1 the legality of the DACA program?</p> <p>2 MR. TYLER: Object. I will direct the</p> <p>3 witness not to answer if this question elicits</p> <p>4 conversations that took place in this meeting.</p> <p>5 BY MR CHEN:</p> <p>6 Q To your knowledge outside of the</p> <p>7 meeting?</p> <p>8 A No.</p> <p>9 MR. WISHNIE: Let's just have a moment.</p> <p>10 We are just about done. We can stay on the record</p> <p>11 for a moment.</p> <p>12 BY MR CHEN:</p> <p>13 Q I want to return just really quickly to</p> <p>14 the late filed applications after October 5. So</p> <p>15 you mentioned that there were six applications</p> <p>16 filed late from Puerto Rico. Is that correct?</p> <p>17 A That's correct.</p> <p>18 Q You also mentioned that you had approved</p> <p>19 all six or accepted is the term that you used?</p> <p>20 A Directed that they be accepted.</p> <p>21 Q You directed that they be accepted. And</p> <p>22 did you use any criteria -- what criteria did you</p>
<p style="text-align: right;">Page 151</p> <p>1 recipients as criminals?</p> <p>2 A No --</p> <p>3 MR. TYLER: -- Objection. Lack of</p> <p>4 foundation. You can answer.</p> <p>5 THE WITNESS: No.</p> <p>6 BY MR CHEN:</p> <p>7 Q Has Mr. Hamilton ever suggested that</p> <p>8 DACA recipients do not deserve to be in this</p> <p>9 country according to your -- to your knowledge?</p> <p>10 MR. TYLER: Objection. Lack of</p> <p>11 foundation.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR CHEN:</p> <p>14 Q To your knowledge has Mr. Hamilton ever</p> <p>15 used a racial slur to refer to DACA recipients?</p> <p>16 A No.</p> <p>17 Q And to your knowledge has he ever</p> <p>18 referred to DACA recipients as a population by</p> <p>19 race?</p> <p>20 A No.</p> <p>21 Q And to your knowledge has Mr. Hamilton</p> <p>22 ever mentioned reasons to terminate DACA besides</p>	<p style="text-align: right;">Page 153</p> <p>1 apply to evaluate whether they should be accepted?</p> <p>2 A Whether or not the hurricane that</p> <p>3 impacted Puerto Rico played a role in preventing</p> <p>4 the timely filing.</p> <p>5 Q And you concluded that it had played</p> <p>6 some role in the filing of these six applications.</p> <p>7 Is that correct?</p> <p>8 A Yes.</p> <p>9 Q How did you come to that conclusion?</p> <p>10 A Five of them were postmarked shortly</p> <p>11 before October 5 and it was reasonable to conclude</p> <p>12 that the hurricane likely impacted the timely</p> <p>13 delivery -- you know, that they would be received</p> <p>14 before October 5. The other one was filed shortly</p> <p>15 afterward and as I recall the requester stated</p> <p>16 that the hurricane had impacted them getting it</p> <p>17 timely filed.</p> <p>18 Q And you had also mentioned that after</p> <p>19 October 5 you had -- SCOPS had received about</p> <p>20 4,000 late file notices. Is that correct?</p> <p>21 A No. What I said is that Tracy Renaud</p> <p>22 indicated to me that it was approximately 4,000</p>

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<p style="text-align: right;">Page 154</p> <p>1 that had been filed at the lockbox.</p> <p>2 Q Do you know if those 4,000 were all</p> <p>3 rejected?</p> <p>4 A I don't know whether they have in fact</p> <p>5 been rejected or if they have been flagged for</p> <p>6 rejection but not yet processed.</p> <p>7 Q Do you know if SCOPS or USCIS plans to</p> <p>8 reject those 4,000 applications?</p> <p>9 A Yes, that is the current plan.</p> <p>10 Q Do you know if the October 5 deadline</p> <p>11 caused more applications than usual between the 30</p> <p>12 day window of October 5 -- sorry, September 5 and</p> <p>13 October 5?</p> <p>14 A No, I don't.</p> <p>15 Q Do you know how many usually -- how many</p> <p>16 applications, renewal applications are usually</p> <p>17 filed within a 30-day period?</p> <p>18 A I do not. I see reports but I don't</p> <p>19 remember what the numbers are.</p> <p>20 Q And would those -- are these reports</p> <p>21 that you are referring to the same reports that</p> <p>22 you mentioned -- mentioned before updating you</p>	<p style="text-align: right;">Page 156</p> <p>1 are the ones that handle it. And what they do</p> <p>2 comes from direction that they receive through the</p> <p>3 Office of Intake and Document Production. But all</p> <p>4 of that is just reflective of the instruction that</p> <p>5 the department or USCIS policy or decision on</p> <p>6 that. And all of that is to say the -- it's a</p> <p>7 long way of saying that they are not considering</p> <p>8 postmarks. It has to be physically received by</p> <p>9 the filing deadline.</p> <p>10 MR CHEN: Okay. Nothing further from</p> <p>11 Batalla Vidal plaintiffs.</p> <p>12 MR. TYLER: Going off of the record for</p> <p>13 change of counsel.</p> <p>14 THE VIDEOGRAPHER: We are going off of</p> <p>15 the record. The time is 1:23 p.m.</p> <p>16 (Whereupon, proceedings recessed from</p> <p>17 1:23 p.m. to 1:26 p.m.)</p> <p>18 THE VIDEOGRAPHER: We are back on the</p> <p>19 record. The time is 1:26 p.m.</p> <p>20 EXAMINATION ON DEFENDANTS</p> <p>21 BY MS. KHAN:</p> <p>22 Q Hi, Mr. Neufeld. My name is Sania Khan.</p>
<p style="text-align: right;">Page 155</p> <p>1 about the work of SCOPS?</p> <p>2 A Yes.</p> <p>3 Q Did the October 5 deadline cause any</p> <p>4 operational difficulties at SCOPS?</p> <p>5 MR. TYLER: Objection. Vague.</p> <p>6 THE WITNESS: I can answer to the extent</p> <p>7 that the deadline is a deadline, is a filing</p> <p>8 deadline. And so there aren't any impacts from</p> <p>9 the filing deadline that we would experience in</p> <p>10 service in our operations.</p> <p>11 BY MR CHEN:</p> <p>12 Q Did the number of applications that came</p> <p>13 in between -- within that time period cause any</p> <p>14 operational difficulties?</p> <p>15 A No.</p> <p>16 Q And finally with the 4,000 notices that</p> <p>17 Ms. Renaud let you know about that was filed after</p> <p>18 October 5, do you know if SCOPS is considering the</p> <p>19 filing -- the postmark date as a reason to</p> <p>20 consider these applications on a case by case</p> <p>21 basis?</p> <p>22 A It's not a SCOPS's decision. Lockboxes</p>	<p style="text-align: right;">Page 157</p> <p>1 I'm from the New York State Attorney General's</p> <p>2 Office and I represent the plaintiff states which</p> <p>3 comprises 17 states that are part of the New York</p> <p>4 v. Trump litigation which is being heard alongside</p> <p>5 the Batalla Vidal litigation. But you don't have</p> <p>6 to worry about that.</p> <p>7 So I just have a few questions for you</p> <p>8 today. The first question is how would you</p> <p>9 describe your three most important job duties?</p> <p>10 A Well, they're all related. I oversee</p> <p>11 the operations, service center operations and so I</p> <p>12 make sure that the group of people that work in</p> <p>13 the service centers have what they need to</p> <p>14 effectively do their jobs. I'm also responsible</p> <p>15 to make sure that they are performing their work</p> <p>16 with a high degree of accuracy and quality. And</p> <p>17 to the extent possible that we are making timely</p> <p>18 decisions for those who file.</p> <p>19 Q Okay. Who those -- for those who file</p> <p>20 DACA or generally?</p> <p>21 A For everything.</p> <p>22 Q Okay. So in the context of accuracy</p>

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<p style="text-align: right;">Page 158</p> <p>1 would efficiency be part of this operational duty?</p> <p>2 A Yes, we need to be efficient so that we</p> <p>3 can make the best use of the resources that we</p> <p>4 have so that we can timely process requests.</p> <p>5 Q How do you -- how do you become more</p> <p>6 efficient?</p> <p>7 A Through constant review of our processes</p> <p>8 and thinking of ways to be more efficient. I hate</p> <p>9 to use the same word, but -- you know, ways that</p> <p>10 we can achieve the same thing with less of an</p> <p>11 investment of the cost or resources.</p> <p>12 Q So if you could describe to me in a very</p> <p>13 practical sense how those analyses are done to</p> <p>14 become more efficient?</p> <p>15 MR. TYLER: I'll object. It calls for a</p> <p>16 narrative answer. You can break it down, please.</p> <p>17 BY MS. KHAN:</p> <p>18 Q Do you -- do you create analyses with</p> <p>19 regard to the efficiency of -- of the operations?</p> <p>20 A No. We have various ways of looking at</p> <p>21 efficiency.</p> <p>22 Q What are those ways?</p>	<p style="text-align: right;">Page 160</p> <p>1 discussed previously gives a lot of like I said</p> <p>2 different data points. And among them are -- is</p> <p>3 an identification of the number of cases and</p> <p>4 waiting for a particular action and how long they</p> <p>5 have been waiting for that action to occur.</p> <p>6 Q Are there any -- are there any analyses</p> <p>7 or data collection done -- strike that actually.</p> <p>8 Is there any data collection done as to</p> <p>9 the demographics of the DACA applicants?</p> <p>10 MR. TYLER: Objection. Vague.</p> <p>11 BY MS. KHAN:</p> <p>12 Q You can answer.</p> <p>13 A I think I can answer this way. That the</p> <p>14 office -- let me get this straight. The Office of</p> <p>15 Performance and Quality produces -- I think it's a</p> <p>16 quarterly report that gives some demographic</p> <p>17 characteristics of the filing population.</p> <p>18 Q Who sees that quarterly report?</p> <p>19 A It's published on the website.</p> <p>20 Q So I'm going to go down a list of</p> <p>21 specific types of data and I just want to know if</p> <p>22 any of these types of data were ever compiled by</p>
<p style="text-align: right;">Page 159</p> <p>1 A That primary way is to look at the</p> <p>2 number of cases that are completed and the</p> <p>3 investment of officer hours that was required to</p> <p>4 achieve that number of completions.</p> <p>5 Q So in the context of -- sorry. Are we</p> <p>6 still on the record? Okay. Sorry.</p> <p>7 So in the context of DACA specifically</p> <p>8 how did you measure -- how did you measure</p> <p>9 efficiency of the implementation of the program?</p> <p>10 A From an efficiency perspective again, it</p> <p>11 was what level of resources were invested to</p> <p>12 achieve the completions that we did.</p> <p>13 Q Were there any other sort of operational</p> <p>14 measurements done on the implementation of DACA?</p> <p>15 MR. TYLER: Objection. Vague.</p> <p>16 BY MS. KHAN:</p> <p>17 Q You can still answer it.</p> <p>18 A Can you repeat the question?</p> <p>19 Q Sure. Were there any operation -- on</p> <p>20 the operational measurements or metrics used on</p> <p>21 the implementation of DACA?</p> <p>22 A Certainly. So that weekly report that I</p>	<p style="text-align: right;">Page 161</p> <p>1 your team. So specifically were there any -- was</p> <p>2 there any data or analyses done as to how many</p> <p>3 DACA grantees are federal government employees?</p> <p>4 A Not by my team.</p> <p>5 Q Was there any data analyses done as to</p> <p>6 how many DACA grantees are small business owners?</p> <p>7 A Not by my team.</p> <p>8 Q Was there any data analyses compiled as</p> <p>9 to the average income of DACA grantees?</p> <p>10 A Not by my team.</p> <p>11 Q The same question for how many DACA</p> <p>12 grantees are home owners?</p> <p>13 A Not by my team.</p> <p>14 Q How many DACA -- the same question for</p> <p>15 how many DACA grantees are in the military?</p> <p>16 A Not by my team.</p> <p>17 Q Same question for DACA grantees who are</p> <p>18 doctors?</p> <p>19 A Not by my team.</p> <p>20 Q Same question for DACA grantees who are</p> <p>21 teachers?</p> <p>22 A Not by my team.</p>

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<p style="text-align: right;">Page 162</p> <p>1 Q Was there any analysis done as to the</p> <p>2 impact of the rescission of DACA on the operational</p> <p>3 aspect of your -- of what you oversee?</p> <p>4 MR. TYLER: Objection. Vague.</p> <p>5 BY MS. KHAN:</p> <p>6 Q You can still answer.</p> <p>7 A I don't -- can you restate?</p> <p>8 Q Yeah, I can restate it. So were there</p> <p>9 any analyses done as to the economic impact of the</p> <p>10 rescission of DACA by your team?</p> <p>11 MR. TYLER: Same objection. Vague.</p> <p>12 THE WITNESS: Economic impact on what?</p> <p>13 BY MS. KHAN:</p> <p>14 Q On your -- on the operational aspect of</p> <p>15 your team?</p> <p>16 MR. TYLER: Still vague. Objection.</p> <p>17 BY MS. KHAN:</p> <p>18 Q Okay. Let me start over. So --</p> <p>19 A Maybe I can say it this way. I don't do</p> <p>20 economic analysis of the costs of the programs</p> <p>21 that we administer. That would be done by the</p> <p>22 chief financial officer.</p>	<p style="text-align: right;">Page 164</p> <p>1 strike that.</p> <p>2 Give me one second.</p> <p>3 So were you ever questioned about the</p> <p>4 potential operational impact of the termination of</p> <p>5 DACA?</p> <p>6 MR. TYLER: Objection. Vague.</p> <p>7 BY MS. KHAN:</p> <p>8 Q You can still answer if you understand</p> <p>9 it.</p> <p>10 A I don't know what you mean by</p> <p>11 operational impacts.</p> <p>12 Q How it would -- I'm asking were you ever</p> <p>13 asked about how the rescission of DACA would impact</p> <p>14 your job, for example?</p> <p>15 A No.</p> <p>16 Q Okay. Were you asked about how it would</p> <p>17 impact the service centers?</p> <p>18 A No.</p> <p>19 Q Were you asked about how the rescission of</p> <p>20 DACA would impact anyone that you -- that you</p> <p>21 supervise?</p> <p>22 MR. TYLER: I'll object on the grounds</p>
<p style="text-align: right;">Page 163</p> <p>1 Q Right. I apologize. I think this is --</p> <p>2 this is on me. The economic -- so you talked</p> <p>3 earlier about the costs of the database change,</p> <p>4 the costs of creating a new system for renewal</p> <p>5 notices. Is that correct?</p> <p>6 A Yes.</p> <p>7 Q Okay. So would you measure that as an</p> <p>8 economic cost in the context of the operational</p> <p>9 system of the implementation of DACA?</p> <p>10 A I wouldn't. Like I said, ultimately the</p> <p>11 CFO would look to all of the costs of</p> <p>12 administering the program.</p> <p>13 Q So what analyses were done with regard</p> <p>14 to the DACA program?</p> <p>15 MR. TYLER: Objection. Lack of</p> <p>16 foundation. Vague.</p> <p>17 BY MS. KHAN:</p> <p>18 Q You can still answer.</p> <p>19 A Yeah, but I don't understand what you</p> <p>20 are asking.</p> <p>21 Q Okay. That's a valid point. Were there</p> <p>22 any analyses done as to the efficacy of DACA --</p>	<p style="text-align: right;">Page 165</p> <p>1 of vagueness.</p> <p>2 THE WITNESS: I was not asked about how</p> <p>3 ending of DACA would impact the people that I</p> <p>4 supervise.</p> <p>5 BY MS. KHAN:</p> <p>6 Q Okay. Moving on. Are you aware of the</p> <p>7 information sharing policies with regard to DACA</p> <p>8 applications and grantees?</p> <p>9 A I'm aware that there are some. I</p> <p>10 don't -- I don't know the ins and outs</p> <p>11 specifically what is allowed and what is not</p> <p>12 allowed.</p> <p>13 Q What are you aware of?</p> <p>14 A That there is a -- somewhere near where</p> <p>15 the requester signs there is a statement that</p> <p>16 spells out what the policies are.</p> <p>17 Q And were you ever asked about those</p> <p>18 policies when they were being formulated?</p> <p>19 MR. TYLER: Objection. Vague.</p> <p>20 THE WITNESS: I wasn't asked about them,</p> <p>21 no. There were discussions early on in that 60</p> <p>22 day period, again, as to what that language should</p>

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<p style="text-align: right;">Page 166</p> <p>1 be. I don't recall specifics of those</p> <p>2 conversations other than that they happened.</p> <p>3 BY MS. KHAN:</p> <p>4 Q Okay. So are you aware of what the</p> <p>5 current policy is with regard to information</p> <p>6 sharing of DACA applicants or grantees?</p> <p>7 A Again, I have a general awareness that</p> <p>8 there are restrictions on the proper use of it.</p> <p>9 But I wouldn't want to say specifically because I</p> <p>10 will get it wrong.</p> <p>11 Q Okay. So it's safe to say that you are</p> <p>12 not aware of any change in policy on that front?</p> <p>13 A That's correct.</p> <p>14 Q Did you provide any sort of statistical</p> <p>15 information with regard to -- strike that.</p> <p>16 Were you asked to provide any</p> <p>17 statistical information in the context of the DACA</p> <p>18 program with regard to the rescision?</p> <p>19 MR. TYLER: Objection. Vague.</p> <p>20 THE WITNESS: Do you mean the</p> <p>21 termination? I'm not --</p> <p>22</p>	<p style="text-align: right;">Page 167</p> <p>1 Nuebel who is the chief of policy and strategy.</p> <p>2 Q And are you aware if any of those</p> <p>3 individuals then forward it on to anyone else?</p> <p>4 A I am not aware.</p> <p>5 Q Have you ever met an unaccompanied</p> <p>6 minor?</p> <p>7 MR. TYLER: Objection. Vague.</p> <p>8 THE WITNESS: What do you mean by</p> <p>9 unaccompanied minor?</p> <p>10 BY MS. KHAN:</p> <p>11 Q Someone who is DACA eligible?</p> <p>12 A Well, in my position I have met with</p> <p>13 members of the community advocating and among them</p> <p>14 were people who had DACA, so yes.</p> <p>15 Q And what was your impression in those</p> <p>16 meetings?</p> <p>17 MR. TYLER: Objection. Vague. Calls</p> <p>18 for personal opinion.</p> <p>19 THE WITNESS: My opinion with respect to</p> <p>20 what?</p> <p>21 BY MS. KHAN:</p> <p>22 Q To who they are, how they are?</p>
<p style="text-align: right;">Page 167</p> <p>1 BY MS. KHAN:</p> <p>2 Q -- Yes. Yes. The termination of DACA.</p> <p>3 A No.</p> <p>4 Q You were not asked to provide any sort</p> <p>5 of statistical information on the operational</p> <p>6 aspects of the DACA program?</p> <p>7 MR. TYLER: Objection.</p> <p>8 BY MS. KHAN:</p> <p>9 Q In the context -- it's a long quest --</p> <p>10 in the context of the termination?</p> <p>11 MR. TYLER: Objection. Vague.</p> <p>12 THE WITNESS: I can answer it this way.</p> <p>13 I wasn't -- SCOPS has the weekly report that we</p> <p>14 have produced weekly for a long time. That report</p> <p>15 continues to be produced and I was not asked for</p> <p>16 any other sort of reporting besides that.</p> <p>17 BY MS. KHAN:</p> <p>18 Q And just to be clear, who does the</p> <p>19 weekly report go to?</p> <p>20 A It comes into me and then I forward it</p> <p>21 to James McCament and back until recently Tracy</p> <p>22 Renaud in her capacity as the deputy. And Kathy</p>	<p style="text-align: right;">Page 169</p> <p>1 MR. TYLER: Same objection.</p> <p>2 THE WITNESS: We weren't there for me to</p> <p>3 form opinions about whether they are good people</p> <p>4 or not and I didn't form an opinion along those</p> <p>5 lines. I was there to listen to what they had to</p> <p>6 say at the time.</p> <p>7 BY MS. KHAN:</p> <p>8 Q Was any of that done in the context of</p> <p>9 your professional duties?</p> <p>10 A Yes. What I'm talking about was all in</p> <p>11 my professional duties.</p> <p>12 Q Did that -- did that -- those meetings</p> <p>13 for example, did they impact any decisions that</p> <p>14 you made in the operational context?</p> <p>15 A So the one meeting that I can think of</p> <p>16 that comes clear is a meeting at the DHS</p> <p>17 headquarters that was attended by Ali Mayorkas,</p> <p>18 the deputy secretary at the time, and others. And</p> <p>19 it was different advocacy groups for DACA that</p> <p>20 were basically pressing for even speedier</p> <p>21 processing of their cases.</p> <p>22 Q And what did you do?</p>

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<p style="text-align: right;">Page 170</p> <p>1 MR. TYLER: Objection. Vague.</p> <p>2 THE WITNESS: We listened to their</p> <p>3 concerns and took that, considered that as a</p> <p>4 reason among many why timely processing is</p> <p>5 important. But timely processing is important for</p> <p>6 just about everything that we do.</p> <p>7 MS. KHAN: I don't think I have any</p> <p>8 further question at this point.</p> <p>9 THE WITNESS: Thank you.</p> <p>10 MS. KHAN: Thank you.</p> <p>11 (Court reporter requests clarification.)</p> <p>12 THE COURT REPORTER: Another examiner?</p> <p>13 MS. KHAN: Yes. There's about three</p> <p>14 more.</p> <p>15 MR. VENTRESCA: Sorry.</p> <p>16 THE COURT REPORTER: That's all right.</p> <p>17 I just need to get the name.</p> <p>18 MR. VENTRESCA: Musical chairs exercise</p> <p>19 here.</p> <p>20 THE COURT REPORTER: And you are?</p> <p>21 MR. VENTRESCA: Ivano Ventresca.</p> <p>22 THE COURT REPORTER: And you're on here?</p>	<p style="text-align: right;">Page 172</p> <p>1 A Yes.</p> <p>2 Q Is this the declaration that you filed</p> <p>3 in the state of Texas v. United States case in the</p> <p>4 Southern District of Texas on January 30, 2015?</p> <p>5 A I have not reread through the whole</p> <p>6 thing, but it looks like it probably is.</p> <p>7 Q If you turn to --</p> <p>8 A It's got my signature.</p> <p>9 Q Yeah. I was going to say if you turn to</p> <p>10 the last page. So it is your signature?</p> <p>11 A Yes.</p> <p>12 Q And you declared under penalty of</p> <p>13 perjury that what you submitted in this</p> <p>14 declaration was true and correct?</p> <p>15 A Yes.</p> <p>16 Q So you don't need to read the whole</p> <p>17 thing. I'm just going to direct you to a couple</p> <p>18 of pages. But first, who asked you to prepare</p> <p>19 this declaration?</p> <p>20 A Oh, I don't remember.</p> <p>21 Q Do you remember what the purpose of the</p> <p>22 declaration was?</p>
<p style="text-align: right;">Page 171</p> <p>1 MR. VENTRESCA: Hopefully. I should be</p> <p>2 the second one.</p> <p>3 EXAMINATION ON BEHALF OF DEFENDANTS</p> <p>4 BY MR. VENTRESCA:</p> <p>5 Q Hi, Mr. Neufeld. My name is Ivano</p> <p>6 Ventresca. I'm with Covington and Burling and we</p> <p>7 represent the University of California and Janet</p> <p>8 Napolitano in the North District of California</p> <p>9 cases. I'm going to try not to repeat any ground</p> <p>10 to not make the day any longer, but I'm just going</p> <p>11 to have some follow up questions. First I would</p> <p>12 like to mark this as Exhibit 38. I'm not sure</p> <p>13 where we are on the -- 39. 39. Copies for the</p> <p>14 record.</p> <p>15 (Whereupon, Exhibit No. 39 was marked</p> <p>16 for identification.)</p> <p>17 BY MR. VENTRESCA:</p> <p>18 Q For the record this is the declaration</p> <p>19 of Donald W. Neufeld filed in the state of Texas</p> <p>20 v. United States of America case in the Southern</p> <p>21 District of Texas. Mr. Neufeld, do you recognize</p> <p>22 this document?</p>	<p style="text-align: right;">Page 173</p> <p>1 A Well, not specifically. I don't know --</p> <p>2 what do you mean what was the purpose?</p> <p>3 Q Well, do you know why you were asked to</p> <p>4 submit a declaration in this case, this case being</p> <p>5 the Texas case?</p> <p>6 A If I'm not mistaken I did at least two</p> <p>7 of them.</p> <p>8 Q Right. I think you did three.</p> <p>9 A Three. Okay. Yeah. So I don't -- I</p> <p>10 don't know without reading this I don't remember,</p> <p>11 I don't know which one this one is.</p> <p>12 Q Okay. Well, I would like to direct you</p> <p>13 to paragraph 15. It's on page -- did you find it?</p> <p>14 A Yes.</p> <p>15 Q Could you just read the first sentence</p> <p>16 of paragraph 15?</p> <p>17 A Out loud?</p> <p>18 Q Yes, please.</p> <p>19 A A DACA request is denied when a USCIS</p> <p>20 adjudicator on a case by case basis determines</p> <p>21 that the requester has not demonstrated that they</p> <p>22 satisfy the guidelines for DACA or when an</p>

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<p style="text-align: right;">Page 174</p> <p>1 adjudicator determines that deferred action should</p> <p>2 be denied even though the threshold guidelines are</p> <p>3 met.</p> <p>4 Q So do you agree that the USCIS</p> <p>5 adjudicator could deny a deferred action request</p> <p>6 under DACA even if the category guidelines for</p> <p>7 DACA were met?</p> <p>8 A Yes.</p> <p>9 Q So could we next turn to paragraph 18</p> <p>10 which should just be on the flip side of the page.</p> <p>11 And so turning to the first sentence of paragraph</p> <p>12 18. I can read this one aloud. It says; even if</p> <p>13 it is determined that a requester has satisfied</p> <p>14 the threshold DACA guidelines the USCIS may</p> <p>15 exercise discretion to deny a request where other</p> <p>16 factors make the grant of deferred action</p> <p>17 inappropriate.</p> <p>18 Do you agree with that statement?</p> <p>19 A Yes.</p> <p>20 Q And then in paragraph -- the next two</p> <p>21 sentences in paragraph 18 give examples of when</p> <p>22 USCIS exercises that discretion. Is that right?</p>	<p style="text-align: right;">Page 176</p> <p>1 appropriate for other reasons not expressly set</p> <p>2 forth in 2012 DACA memorandum such as evidence of</p> <p>3 immigration fraud.</p> <p>4 Do you agree with that statement?</p> <p>5 A Yes.</p> <p>6 Q And so is that consistent with what we</p> <p>7 just discussed in that there were cases in which</p> <p>8 USCIS denied DACA requests even where the</p> <p>9 guidelines of DACA were met?</p> <p>10 A Yes.</p> <p>11 Q And then the sentence in paragraph 24</p> <p>12 that's going to go onto the next page starts;</p> <p>13 until very recently USCIS lacked any ability to</p> <p>14 automatically track and sort the reasons for DACA</p> <p>15 denials and it still lacks the ability to do so</p> <p>16 for all DACA denials except for very recent ones.</p> <p>17 Is it correct -- does that statement</p> <p>18 mean that as of this date of the declaration</p> <p>19 January 30, 2015 USCIS had the ability to track</p> <p>20 the reasons for DACA denials?</p> <p>21 A Yes, but I don't know the specific ways</p> <p>22 we can categorize the type of denial.</p>
<p style="text-align: right;">Page 175</p> <p>1 A Yes.</p> <p>2 Q Okay. And that third sentence that</p> <p>3 starts with, as another example. It states; when</p> <p>4 USCIS learned that a DACA requester falsely</p> <p>5 claimed to be a U S citizen and had prior removal</p> <p>6 as an exercise of discretion USCIS denied their</p> <p>7 request even though those issues are not</p> <p>8 specifically part of the DACA guidelines.</p> <p>9 Do you agree with that statement?</p> <p>10 A I'm sure that it is accurate. I don't</p> <p>11 remember that case at this point in time.</p> <p>12 Q So that statement that you made says</p> <p>13 that there was a case in which USCIS denied a DACA</p> <p>14 request even where the DACA guidelines were not</p> <p>15 met?</p> <p>16 A Yes.</p> <p>17 Q Okay. And then if we could turn to</p> <p>18 paragraph 24 which is a couple of pages. So at</p> <p>19 the very -- the very last sentence paragraph of</p> <p>20 24. Well, it's the -- well, it's the last full</p> <p>21 sentence. It states; requests have also been</p> <p>22 denied on the basis that deferred action was not</p>	<p style="text-align: right;">Page 177</p> <p>1 Q Okay. So to follow up on that. So as</p> <p>2 of this -- as of the day of this declaration, so</p> <p>3 January 30, 2015 could USCIS determine if a DACA</p> <p>4 request was denied on the basis of discretion?</p> <p>5 A I don't know.</p> <p>6 Q Okay. And just to wrap up this</p> <p>7 declaration. On the very last page on your</p> <p>8 signature page. So the last sentence above the, I</p> <p>9 declare, sentence. So that sentence states;</p> <p>10 finally in DACA USCIS exercises its discretion by</p> <p>11 otherwise denying a request for other factors not</p> <p>12 included in the guidelines but make the grant of</p> <p>13 deferred action inappropriate.</p> <p>14 So again, is that consistent with what</p> <p>15 we have been discussing in that USCIS will deny,</p> <p>16 could deny DACA requests even where the DACA</p> <p>17 guidelines were met?</p> <p>18 A Yes.</p> <p>19 Q Okay. So I would like to switch</p> <p>20 documents now. And this has already been marked I</p> <p>21 believe as Exhibit 3. It's the administrative</p> <p>22 record, specifically the recision memorandum. I</p>

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<p style="text-align: right;">Page 178</p> <p>1 think it has been called the Duke memorandum.</p> <p>2 THE COURT REPORTER: Did you want it</p> <p>3 marked?</p> <p>4 MR. VENTRESCA: Well, it's part of what</p> <p>5 was Exhibit 3. So we can mark it if that's</p> <p>6 easier.</p> <p>7 MR. TYLER: This is so I'm clear -- this</p> <p>8 is my first deposition. This is a continuation of</p> <p>9 exhibits that have been entered in the previous</p> <p>10 depositions?</p> <p>11 MR. VENTRESCA: Yes. So the</p> <p>12 administrative record was previously entered and</p> <p>13 this is just part of it. So we can mark it, or.</p> <p>14 THE COURT REPORTER: Mark it as what?</p> <p>15 40 or three?</p> <p>16 MR. VENTRESCA: Three. No?</p> <p>17 MR. COX: Except for that's not all of</p> <p>18 three. Three, that is the whole administrative</p> <p>19 record.</p> <p>20 MR. TYLER: If you've identified -- you,</p> <p>21 counsel, has identified Exhibit 3 to be the entire</p> <p>22 administrative record then I don't know that we</p>	<p style="text-align: right;">Page 180</p> <p>1 footnote one which is on the Bates page number</p> <p>2 ending in 253. Do you see that?</p> <p>3 A Yes.</p> <p>4 Q Could you read me footnote one?</p> <p>5 A Significantly while the DACA denial</p> <p>6 notice indicates the decision to deny is made in</p> <p>7 the unreviewable discretion of USCIS, USCIS has</p> <p>8 not been able to identify specific denial cases</p> <p>9 where an applicant appeared to satisfy the</p> <p>10 programmatic categorical criteria as outlined in</p> <p>11 the June 15, 2012 memorandum but still had his or</p> <p>12 her application denied based solely upon</p> <p>13 discretion.</p> <p>14 Q Is that a correct statement?</p> <p>15 MR. TYLER: Objection. Foundation.</p> <p>16 Form.</p> <p>17 THE WITNESS: I don't know whether it's</p> <p>18 correct.</p> <p>19 BY MR. VENTRESCA:</p> <p>20 Q So when you in your declaration, which</p> <p>21 was Exhibit 39, at paragraph 18 stated that USCIS</p> <p>22 learned that a DACA requester falsely claimed to</p>
<p style="text-align: right;">Page 179</p> <p>1 can refer to this as Exhibit 3.</p> <p>2 MR. VENTRESCA: Okay. We can make it</p> <p>3 Exhibit 40.</p> <p>4 MR. NEWMAN: Can we go off of the</p> <p>5 record, please?</p> <p>6 THE VIDEOGRAPHER: Off of the record.</p> <p>7 The time is 1:52 p.m.</p> <p>8 (Whereupon, Exhibit No. 3 previously</p> <p>9 marked was identified.)</p> <p>10 (The proceeding recessed from 1:52 p.m.</p> <p>11 to 1:55 p.m.)</p> <p>12 THE VIDEOGRAPHER: We are back on the</p> <p>13 record. The time is 1:55 p.m.</p> <p>14 BY MR. VENTRESCA:</p> <p>15 Q Mr. Neufeld, I'm going to show you a</p> <p>16 portion of Exhibit 3 that starts with the Bates</p> <p>17 page number ending in 252 and ends with Bates page</p> <p>18 number 256. For the record it is the rescision of</p> <p>19 the June 15, 2012 memorandum. Do you recognize</p> <p>20 the document?</p> <p>21 A Yes.</p> <p>22 Q I would like to turn your attention to</p>	<p style="text-align: right;">Page 181</p> <p>1 be a U S citizen and had prior removals, as an</p> <p>2 exercise of discretion USCIS denied the request</p> <p>3 even though those issues are not specifically part</p> <p>4 of the DACA guidelines is that not an example of</p> <p>5 a -- as this memorandum states, the denial case</p> <p>6 where the applicant appeared to satisfied the</p> <p>7 programmatic categorical criteria?</p> <p>8 A The difficulty I have with saying</p> <p>9 whether that's accurate or not is understanding</p> <p>10 what was intended by identify.</p> <p>11 Q What is your understanding?</p> <p>12 A I didn't write it so I don't know. I</p> <p>13 know that in my declaration I was made aware of</p> <p>14 cases that were -- that we had denied -- the</p> <p>15 examples of cases that were denied were presented</p> <p>16 to me by my staff whom I have every reason to</p> <p>17 believe was accurate.</p> <p>18 Q Right.</p> <p>19 A However, I didn't personally review</p> <p>20 those cases and I don't know whether those cases,</p> <p>21 how those cases -- I don't know if the cases are</p> <p>22 identified in some way that you could pull them</p>

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<p style="text-align: right;">Page 182</p> <p>1 and review them without reviewing all of the cases</p> <p>2 to find them.</p> <p>3 Q But you were able to identify those</p> <p>4 cases, you or your staff? Is that right?</p> <p>5 A My staff were able to recall that there</p> <p>6 were cases that had been denied with these fact</p> <p>7 patterns.</p> <p>8 Q Could you tell me who --</p> <p>9 A -- did it -- it's a different thing to</p> <p>10 say -- again, it comes down to what does identify</p> <p>11 mean. If it means -- you know -- you know,</p> <p>12 specific information and that is now identifiable</p> <p>13 with a case number and whatnot, then I don't know</p> <p>14 whether we're able to now identify those specific</p> <p>15 cases that were referenced in my declaration.</p> <p>16 Q Okay. So could you tell me who on your</p> <p>17 staff identified the cases referenced in your</p> <p>18 declaration?</p> <p>19 A I believe it was Jerry Rigdon who had</p> <p>20 the position that is now encumbered by Alex King</p> <p>21 that I have referred to about before. So it is</p> <p>22 the branch chief for the branch that has the DACA</p>	<p style="text-align: right;">Page 184</p> <p>1 question?</p> <p>2 BY MR. VENTRESCA:</p> <p>3 Q Sure. Let's start. So it seems -- do</p> <p>4 you agree that Acting Secretary Duke -- well, let</p> <p>5 me rephrase. Do you agree that USCIS as</p> <p>6 represented in the memorandum did not identify</p> <p>7 specific denial cases where USCIS exercised</p> <p>8 discretion?</p> <p>9 MR. TYLER: I'll object to the form of</p> <p>10 the question. I mean the document speaks for</p> <p>11 itself, so. I object on form and vagueness.</p> <p>12 BY MR. VENTRESCA:</p> <p>13 Q You can answer.</p> <p>14 A I don't understand what you're asking</p> <p>15 me.</p> <p>16 Q So in this memorandum USCIS did not</p> <p>17 identify specific denial cases where USCIS</p> <p>18 exercised discretion to deny a DACA request. Your</p> <p>19 staff was able to find such specific cases. Do</p> <p>20 you know why your staff was able to find such</p> <p>21 cases but USCIS in this memo was not able to find</p> <p>22 those cases?</p>
<p style="text-align: right;">Page 183</p> <p>1 portfolio.</p> <p>2 Q Could you spell his last name?</p> <p>3 A R-I-G-D-O-N.</p> <p>4 Q Anyone else?</p> <p>5 A No.</p> <p>6 Q So Jerry Rigdon would have the</p> <p>7 individual who could have identified?</p> <p>8 A As I recall -- it is going back a couple</p> <p>9 of years now. It's a little fuzzy, but I think</p> <p>10 that was him.</p> <p>11 Q Do you know how Jerry would have found</p> <p>12 these cases?</p> <p>13 A I don't, other than that he was in</p> <p>14 regular communication with the teams at the</p> <p>15 centers that were adjudicating cases.</p> <p>16 Q Is there a reason why Mr. Rigdon would</p> <p>17 have been able to find these cases but Acting</p> <p>18 Secretary Duke would not have been able to find</p> <p>19 these cases?</p> <p>20 MR. TYLER: Objection. Vague. Lack of</p> <p>21 foundation.</p> <p>22 THE WITNESS: Can you repeat the</p>	<p style="text-align: right;">Page 185</p> <p>1 A I think it comes back again to what does</p> <p>2 identify mean. I don't recall the specific</p> <p>3 circumstances of how the examples were brought to</p> <p>4 my attention. I don't know or at least I don't</p> <p>5 remember whether they were coming from the memory</p> <p>6 of adjudicators who had adjudicated those cases,</p> <p>7 which is different than identifying those cases</p> <p>8 from the 800,000 that we've adjudicated and</p> <p>9 putting your finger on that's the case that we're</p> <p>10 talking about. There is a difference. And so</p> <p>11 that's -- I think that's to me where the tension</p> <p>12 is coming from here.</p> <p>13 Q Were you consulted about the substance</p> <p>14 of this footnote?</p> <p>15 A I don't recall being consulted.</p> <p>16 Q Did you review this footnote before it</p> <p>17 was published in its final form?</p> <p>18 A Not that I recall.</p> <p>19 Q And could you give me your understanding</p> <p>20 of the meaning of the word identified that make</p> <p>21 this footnote accurate?</p> <p>22 A It's the difference between putting</p>

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<p style="text-align: right;">Page 186</p> <p>1 your -- being able to put your finger on a case, 2 pull it, and review it now versus somebody 3 remembering that they adjudicated this case. Both 4 you can say -- the case could have been 5 adjudicated but the fact that we can't identify it 6 now in the stack of 800,000 is the difference I'm 7 talking about. 8 Q Did anyone ask -- did anyone at USCIS or 9 DHS ask to review your declaration that you 10 submitted on January 30, 2016? 11 MR. TYLER: Objection. Lack of 12 foundation. 13 THE WITNESS: Nobody asked me to review 14 my declaration. 15 BY MR. VENTRESCA: 16 Q Do you know if anyone at DHS reviewed 17 that declaration in the preparation of this 18 recision memorandum? 19 A I do not know. 20 Q Just a couple more questions. We'll 21 switch -- switch topics. You recently testified 22 about that immigration advocacy groups that you</p>	<p style="text-align: right;">Page 188</p> <p>1 A I'm not aware. 2 Q And are you aware that DACA recipients 3 are employers? 4 A I believe so. 5 Q Do you know if any of the employees of 6 DACA recipients have been contacted with respect 7 to the recision of DACA? 8 A I'm not aware. 9 Q And one kind of final set of questions. 10 Have you overseen deferred -- other deferred 11 action programs besides DACA? 12 A Program is a word that has different 13 meanings, but within -- the SCOPS portfolio of 14 benefit adjudications includes requests under the 15 Violence Against Women Act, VAWA, and T's and U's, 16 nonimmigrants. And as I recall -- I don't recall 17 the specifics. All three of those I think have 18 some of those requests can result in deferred 19 action being authorized. 20 Q Okay. For ease I'll refer to them as 21 deferred action programs here. 22 MR. TYLER: I will object to counsel's</p>
<p style="text-align: right;">Page 187</p> <p>1 had met with them about the change in the 2 processing times. Is that right? 3 A No. The purpose of the meeting was for 4 them to convey their desire that the processing 5 times be quicker. 6 Q Are you aware if immigration advocacy 7 groups were consulted with respect to the recision 8 of DACA? 9 A I'm not aware. 10 Q And you are aware that DACA recipients 11 serve in the military? 12 A I'm aware of that, yes. 13 Q Are you aware of whether of any of their 14 supervising officers were contacted with respect 15 to the recision of DACA? 16 A I'm not aware. 17 Q And are you aware that DACA recipients 18 are students at schools and universities? 19 A Yes. 20 Q Are you aware of whether those 21 universities were contacted with respect to the 22 recision of DACA?</p>	<p style="text-align: right;">Page 189</p> <p>1 characterization of them as programs. 2 BY MR. VENTRESCA: 3 Q Have you overseen deferred action 4 programs that have ended, as in they have 5 terminated or lapsed? 6 A Not that I recall and I don't believe 7 so. 8 Q Are you aware of any discussions with 9 respect to terminating the deferred action 10 requests that you have discussed, the Violence 11 Against Women Act and the T and U visas -- of any 12 discussions to termination those programs due the 13 litigation risk? 14 A Not that I'm aware of. 15 Q Have you -- are you aware of any 16 discussions to terminate those programs due to 17 their illegality? 18 MR. TYLER: I again object to counsel's 19 mischaracterization of these as programs. 20 THE WITNESS: I'm not aware of any 21 discussions to change the way deferred action is 22 handled for those programs for any reason.</p>

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<p style="text-align: right;">Page 190</p> <p>1 MR. VENTRESCA: Okay. That's all I</p> <p>2 have.</p> <p>3 (Court reporter request.)</p> <p>4 THE VIDEOGRAPHER: We are going off of</p> <p>5 the record. The time is 2:05 p.m.</p> <p>6 (Whereupon, the proceeding recessed from</p> <p>7 2:05 p.m. to 2:16 p.m.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record. This is the beginning of media unit</p> <p>10 number 4. The time is 2:16 p.m.</p> <p>11 EXAMINATION ON BEHALF OF DEFENDANTS</p> <p>12 BY MR. NEWMAN:</p> <p>13 Q Hello, sir. My name is Michael Newman</p> <p>14 from the California Attorney General's Office on</p> <p>15 behalf the state of California. Thank you very</p> <p>16 much. I have a few additional questions.</p> <p>17 A Sure.</p> <p>18 Q Is it accurate to say that you stated in</p> <p>19 your earlier testimony that you had 4,000</p> <p>20 applications received at the lockbox after October</p> <p>21 5 of this year?</p> <p>22 A What I said was Tracy Renaud indicated</p>	<p style="text-align: right;">Page 192</p> <p>1 A I'm not aware.</p> <p>2 Q You referenced a report. Do you</p> <p>3 generally get those reports?</p> <p>4 A I'm saying I haven't seen a report. I'm</p> <p>5 sure that they capture that data.</p> <p>6 Q Okay. You have not seen a report?</p> <p>7 A On the number of rejected -- sorry. I</p> <p>8 have not seen a report of the reject -- number of</p> <p>9 rejected requests after either of the deadlines,</p> <p>10 at least not to my recollection.</p> <p>11 Q Okay. And I apologize. It was my fault</p> <p>12 on the misunderstanding. I asked you before about</p> <p>13 a report on the data regarding the rejected</p> <p>14 application. Are you referring to data as only</p> <p>15 the number of applications?</p> <p>16 A That was the reference I was making, but</p> <p>17 I haven't seen any other data either.</p> <p>18 Q Okay. Have you seen data regarding the</p> <p>19 location of filing or of mailing of the</p> <p>20 applications?</p> <p>21 A I have seen -- I'm aware of the six</p> <p>22 cases that came from Puerto Rico because they were</p>
<p style="text-align: right;">Page 191</p> <p>1 that there were about 4,000 that had been filed</p> <p>2 after October 5 and were at the lockbox. And I</p> <p>3 have to say that I don't know for a fact whether</p> <p>4 those are just renewals or could include some</p> <p>5 initial filings. I just don't know.</p> <p>6 Q Is it also accurate to state that you</p> <p>7 said that you anticipate all of those will be</p> <p>8 rejected?</p> <p>9 A Yes.</p> <p>10 Q Okay. Do you have any data on the</p> <p>11 rejected applications?</p> <p>12 MR. TYLER: Objection. Vagueness.</p> <p>13 BY MR. NEWMAN:</p> <p>14 Q I can rephrase. Do you capture any data</p> <p>15 regarding the applications?</p> <p>16 A SCOPS does not, but OIDP would have data</p> <p>17 on rejected requests.</p> <p>18 Q What would that data include?</p> <p>19 A I don't know specifically. I have not</p> <p>20 seen a report.</p> <p>21 Q Are you aware as to whether that data</p> <p>22 will be released publicly?</p>	<p style="text-align: right;">Page 193</p> <p>1 flagged for my attention to review. Other than</p> <p>2 that I have not seen specific data on rejected</p> <p>3 filings based on state of origin or anything else.</p> <p>4 Q Are you aware of whether the 4,000</p> <p>5 applications currently in the lockbox,</p> <p>6 approximately, will be recorded, will have their</p> <p>7 data recorded as regards a number of data points</p> <p>8 including state of origin?</p> <p>9 MR. TYLER: I will object on this</p> <p>10 ground. Counsel is -- the deponent has testified</p> <p>11 that he heard hearsay statements about a 4,000</p> <p>12 number. So it is just that. So I will object to</p> <p>13 counsel's characterization of this as fact.</p> <p>14 MR. NEWMAN: Okay.</p> <p>15 MR. TYLER: This 4,000 number.</p> <p>16 MR. NEWMAN: Okay.</p> <p>17 THE WITNESS: So the question is what?</p> <p>18 BY MR. NEWMAN:</p> <p>19 Q The question is are you aware of data</p> <p>20 points that are obtained from applications that</p> <p>21 come into the lockbox?</p> <p>22 A I am not aware of specific data points.</p>

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<p style="text-align: right;">Page 194</p> <p>1 Q Okay. You stated earlier that you were</p> <p>2 aware of information sharing policies but not</p> <p>3 involved in the development of the policy. Are</p> <p>4 both of those statements about your earlier</p> <p>5 statement correct?</p> <p>6 MR. TYLER: I'll object. Compound.</p> <p>7 THE WITNESS: What is the first part of</p> <p>8 that question?</p> <p>9 BY MR. NEWMAN:</p> <p>10 Q Okay. I will ask it separately. Do you</p> <p>11 recall stating earlier that you were aware of</p> <p>12 information sharing policies generally?</p> <p>13 A Yes.</p> <p>14 Q Is it accurate to state that you</p> <p>15 testified earlier that you were not involved in</p> <p>16 the development of the policies?</p> <p>17 A That's difficult for this reasons; I</p> <p>18 didn't have a role in developing, in deciding what</p> <p>19 the policy would be. I was engaged in discussions</p> <p>20 about the wording that was used on the -- you</p> <p>21 know, around the signature block on the form</p> <p>22 itself.</p>	<p style="text-align: right;">Page 196</p> <p>1 Q Can you delineate the different manners</p> <p>2 in which requests would be made for information</p> <p>3 and who would handle those?</p> <p>4 MR. TYLER: Objection. Compound.</p> <p>5 Vague.</p> <p>6 THE WITNESS: So depending -- I don't</p> <p>7 have a lot of personal knowledge about how</p> <p>8 information is shared with other components in the</p> <p>9 department or externally. I am aware, unless it</p> <p>10 has changed, that there -- I believe there is a</p> <p>11 form that an individual in ICE can submit to</p> <p>12 request information. Other than the general</p> <p>13 awareness that that form exists I don't know who</p> <p>14 processes it or what the content is or anything</p> <p>15 along those lines.</p> <p>16 BY MR. NEWMAN:</p> <p>17 Q Who does process it?</p> <p>18 A I just -- I don't know.</p> <p>19 Q Do you have any indication of what</p> <p>20 bureau or sub-unit of the Department of Homeland</p> <p>21 Security processes it?</p> <p>22 A No. This -- the context that I'm</p>
<p style="text-align: right;">Page 195</p> <p>1 Q When you say form, are you referring to</p> <p>2 the form that the applicant needs to file?</p> <p>3 A The form I-821D.</p> <p>4 Q Are you involved in any way in</p> <p>5 evaluating information sharing requests regarding</p> <p>6 the information on these forms?</p> <p>7 MR. TYLER: I'll object. Vagueness.</p> <p>8 Vague.</p> <p>9 THE WITNESS: I'm confused about what --</p> <p>10 what do you mean by information sharing and</p> <p>11 involvement?</p> <p>12 BY MR. NEWMAN:</p> <p>13 Q I will represent to you that there may</p> <p>14 be requests at various times from different people</p> <p>15 both within Department of Homeland Security and</p> <p>16 outside the Department of Homeland Security to</p> <p>17 obtain information regarding DACA applicants.</p> <p>18 A I would not be involved in handling</p> <p>19 those requests.</p> <p>20 Q Do you know who is?</p> <p>21 A It would depend on what the request</p> <p>22 specifically was.</p>	<p style="text-align: right;">Page 197</p> <p>1 talking about it would be a request coming into</p> <p>2 USCIS from another component outside of USCIS</p> <p>3 asking for information. I don't know who would</p> <p>4 process that. You know, what information they</p> <p>5 have to review or anything. Just generally aware</p> <p>6 that there is a form for that.</p> <p>7 Q At any point are you made aware of</p> <p>8 whether a request is granted?</p> <p>9 A No.</p> <p>10 Q Do any of your subordinates have</p> <p>11 responsibility for collating data?</p> <p>12 MR. TYLER: Objection. Vague.</p> <p>13 THE WITNESS: If you mean in reference</p> <p>14 to responding to a information request?</p> <p>15 BY MR. NEWMAN:</p> <p>16 Q I'm sorry.</p> <p>17 A Then my guess here is that it depends on</p> <p>18 where that information exists. So it would not</p> <p>19 surprise me that I have people in service</p> <p>20 center -- in service centers responding to</p> <p>21 requests. But I'm personally not involved in that</p> <p>22 and I have not had visibility much into the</p>

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<p style="text-align: right;">Page 198</p> <p>1 specifics of that process.</p> <p>2 Q So just --</p> <p>3 A These are requests for records, is the</p> <p>4 context that I'm talking about. Not data about</p> <p>5 like the number of people filing or anything.</p> <p>6 It's about specific information that's tied to a</p> <p>7 specific individual. So those are records</p> <p>8 requests.</p> <p>9 The records policies are not managed by</p> <p>10 SCOPS, they are managed by our records division in</p> <p>11 the -- I forget the name. The IRIS director. But</p> <p>12 I don't remember what I-R-I-S stands for.</p> <p>13 And many records are housed by that</p> <p>14 director under that division. And so I would</p> <p>15 imagine many of these requests would be processed</p> <p>16 by them. If they relate to an active file that we</p> <p>17 would have in our holdings then I'm sure that we</p> <p>18 are involved in some way, my staff would be</p> <p>19 involved in some way in responding to that. But</p> <p>20 to what level or what decisions they have to make</p> <p>21 I'm not personally knowledgeable.</p> <p>22 Q Would the process that you just</p>	<p style="text-align: right;">Page 200</p> <p>1 handled. I know that we have at each service</p> <p>2 center there is a background check unit and there</p> <p>3 is a center fraud detection office component.</p> <p>4 Either of those components can interact with law</p> <p>5 enforcement to include ICE and CBP. And I don't</p> <p>6 know -- I don't have visibility to the day-to-day</p> <p>7 interactions that happen with respect to specific</p> <p>8 case handling.</p> <p>9 BY MR. NEWMAN:</p> <p>10 Q Are you aware of any changes in policy</p> <p>11 regarding handling of requests for information</p> <p>12 within the last year?</p> <p>13 A No.</p> <p>14 Q Have you ever been involved -- you</p> <p>15 testified earlier -- I will stop. Let me rephrase</p> <p>16 the question.</p> <p>17 You testified earlier that you had not</p> <p>18 been involved in the winding down of any other</p> <p>19 deferred action program. Is that correct?</p> <p>20 A Well, I took issue with calling them</p> <p>21 programs, but I have not been involved in changes</p> <p>22 that would affect large numbers of deferred action</p>
<p style="text-align: right;">Page 199</p> <p>1 delineated be the process whether it comes from</p> <p>2 within the Department of Homeland Security or</p> <p>3 outside of the Department of Homeland Security or</p> <p>4 would there be a different process?</p> <p>5 A I don't know of any other process.</p> <p>6 Q Okay. Would the same process apply for</p> <p>7 both Immigration and Customs Enforcement as for</p> <p>8 Customs and Border Patrol?</p> <p>9 MR. TYLER: Objection. Vague.</p> <p>10 THE WITNESS: The form that I was</p> <p>11 referencing, I believe, I'm not certain. I</p> <p>12 believe it's for use by any other DHS component</p> <p>13 that would include CBP or ICE.</p> <p>14 BY MR. NEWMAN:</p> <p>15 Q Do you have actual knowledge of any</p> <p>16 instance in which one of your subordinates was</p> <p>17 involved in collecting information in response to</p> <p>18 one of the requests that we have just been</p> <p>19 referencing?</p> <p>20 MR. TYLER: Objection. Vague.</p> <p>21 THE WITNESS: I -- I don't have</p> <p>22 knowledge of specific requests and how they were</p>	<p style="text-align: right;">Page 201</p> <p>1 requests.</p> <p>2 Q Okay. So my question is a little</p> <p>3 broadier than that. Have you been involved in any</p> <p>4 capacity with the winding down of any program in</p> <p>5 your federal government career?</p> <p>6 MR. TYLER: Objection. Vague.</p> <p>7 THE WITNESS: I have a long career and</p> <p>8 over the course of that career laws have been</p> <p>9 enacted that changed things and so I have been</p> <p>10 involved in those. I have been involved in the</p> <p>11 sunset of 245(i), numerous other statutes that</p> <p>12 have expired or changes that have been made by</p> <p>13 Congress, policy changes from administrations.</p> <p>14 BY MR. NEWMAN:</p> <p>15 Q And you reference that you had an issue</p> <p>16 with calling it -- with calling DACA a program?</p> <p>17 A Well, not so much whether DACA is a</p> <p>18 program, but you were asking me whether I had been</p> <p>19 involved in the wind down of other deferred action</p> <p>20 programs. And I wouldn't personally categorize</p> <p>21 the other context in which we make decision about</p> <p>22 deferred action as being related to -- as being</p>

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<p style="text-align: right;">Page 202</p> <p>1 programmatic. So in the T, U, and VAWA -- the T, 2 U, and VAWA adjudication, that's a program in my 3 mind. Deferred action goes along with those 4 programs, but it is not an independent program. 5 Q So are you aware of any other programs 6 that you just referenced as independent programs? 7 A Involving deferred action -- 8 Q Involving deferred action? 9 A -- that SCOPS adjudicates? No. 10 Q Does the VAWA program utilize renewal 11 notices for people to renew their status under 12 that program? 13 A No. 14 Q Does the U visa program utilize renewal 15 notices to renew status under that program? 16 A I don't believe so, no. 17 Q Does the T visa program utilize renewal 18 notices to renew status under that program? 19 A Not that I'm aware of, no. 20 Q When you were first assigned the 21 responsibility of overseeing the wind down process 22 within -- by your subordinates of DACA program,</p>	<p style="text-align: right;">Page 204</p> <p>1 A I'm not aware of any other than whatever 2 costs there are with notices and with the 3 communications strategy, that sort of thing. I'm 4 sure there is a cost to that. 5 Q Did you have any contracts in place with 6 contractors to assist with the administration of 7 the DACA program? 8 MR. TYLER: Objection. Vague. 9 THE WITNESS: We have contractors in -- 10 that SCOPS utilizes at the service centers in 11 support of all of the benefit requests that we 12 handle there including DACA. And so frankly, 13 those expenses will be reduced when the DACA 14 workload goes away. 15 BY MR. NEWMAN: 16 Q So when you say the expenses are being 17 reduced are you terminating contracts? 18 A No. 19 Q So are there services for which you have 20 contracted to implement DACA that you are now not 21 going to be utilizing as a result of the 22 non-implementation of DACA?</p>
<p style="text-align: right;">Page 203</p> <p>1 did you come up with a plan or some other road map 2 to guide your subordinates in engaging in the wind 3 down? 4 A It depends on what you mean by plan. So 5 we need -- we are in the process of figuring out 6 the allocation of resources for the coming year 7 and so as we are working on that larger -- you 8 know, allocation of resources. The DACA workload 9 is one of them. And yes, we are aware of the fact 10 that the DACA program is going away so we will 11 consider that in how we allocate resources. But 12 that's pretty much the extent -- extent of it. 13 From an operational perspective our work just goes 14 away. 15 Q When you use the word resources do you 16 mean anything other than employees or staff? 17 A No. I mean staff. 18 Q Okay. Are there any nonemployee costs 19 associated with the wind down of the DACA program? 20 A Do you mean costs that are incurred 21 because the program is winding down? 22 Q Yes.</p>	<p style="text-align: right;">Page 205</p> <p>1 A We -- SCOPS has one contract that would 2 be impacted at all by DACA, that's the overarching 3 contract that provides basic essentially clerical 4 services at all of the service centers. And for 5 the most part those services are paid for by the 6 piece. And so when the work is reduced then we 7 pay them less because they are doing less work. 8 But there is not a contract that is going away 9 because of DACA. 10 Q Okay. We spoke a little earlier about 11 the strategic plan that you put in place for the 12 wind down of DACA. Is that correct? 13 A You asked me a question. 14 Q Is there any point at which that 15 strategic plan has been not been fulfilled or 16 there have been any issues with the implementation 17 of that strategic plan? 18 MR. TYLER: I'll object, compound. I'll 19 object on grounds, vague. What you mean by 20 strategic plan. 21 THE WITNESS: If you could restate the 22 question that would be helpful.</p>

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<p style="text-align: right;">Page 206</p> <p>1 BY MR. NEWMAN:</p> <p>2 Q Have you had any technical difficulties</p> <p>3 with the wind down of DACA?</p> <p>4 A No.</p> <p>5 Q Did you have to engage in any training</p> <p>6 of the line staff related to the wind down</p> <p>7 process?</p> <p>8 A No. As I said, the main operational</p> <p>9 impact here is that the workload is going away, so</p> <p>10 that the important thing for employees to</p> <p>11 understand is that it is going away and when its</p> <p>12 going away. The actual adjudications aren't</p> <p>13 changing that I can -- I can't think of anything</p> <p>14 that's changing specifically with respect to the</p> <p>15 adjudications.</p> <p>16 What will be important for them to</p> <p>17 understand -- because the cases have not been</p> <p>18 delivered for adjudication yet. They will need to</p> <p>19 understand that for example the six cases that are</p> <p>20 being accepted after the filing deadline, that</p> <p>21 those are okay to process even though the memo</p> <p>22 would indicate that they can't be accepted after</p>	<p style="text-align: right;">Page 208</p> <p>1 of winding down DACA?</p> <p>2 A No.</p> <p>3 Q Do you anticipate that you will have any</p> <p>4 remaining workload on DACA following the March 5</p> <p>5 termination date of DACA?</p> <p>6 MR. TYLER: Objection. Speculation.</p> <p>7 THE WITNESS: We are projecting that we</p> <p>8 will still have work remaining to be adjudicated</p> <p>9 after March 5.</p> <p>10 BY MR. NEWMAN:</p> <p>11 Q What will that work consist of?</p> <p>12 A Whatever cases that we have not gotten</p> <p>13 around to completing.</p> <p>14 MR. NEWMAN: Okay. I have no further</p> <p>15 questions.</p> <p>16 MR. TYLER: Done?</p> <p>17 MR. NEWMAN: Do we need to confer before</p> <p>18 we terminate?</p> <p>19 MR. TYLER: Off of the record.</p> <p>20 THE VIDEOGRAPHER: We are going off of</p> <p>21 the record. The time is 2:38 p.m.</p> <p>22 (The proceeding recessed from 2:38 p.m.</p>
<p style="text-align: right;">Page 207</p> <p>1 October 5.</p> <p>2 Q Do you have any plans to train them on</p> <p>3 the processing of additional applications like you</p> <p>4 just delineated?</p> <p>5 MR. TYLER: Objection. Vague.</p> <p>6 THE WITNESS: These are precisely six</p> <p>7 cases, so it's not going to involve a lot of</p> <p>8 training. It would be just conveying to the folks</p> <p>9 who adjudicate them that they are okay to process.</p> <p>10 BY MR. NEWMAN:</p> <p>11 Q And how do you intend to communicate</p> <p>12 that?</p> <p>13 A I actually haven't thought of that yet.</p> <p>14 Q You said you were asked about the costs</p> <p>15 associated with the wind down of DACA and you</p> <p>16 replied that there were costs?</p> <p>17 MR. TYLER: I'll object to counsel's</p> <p>18 characterization of the testimony.</p> <p>19 THE WITNESS: I don't recall saying</p> <p>20 that.</p> <p>21 BY MR. NEWMAN:</p> <p>22 Q Okay. Were you ever asked about costs</p>	<p style="text-align: right;">Page 209</p> <p>1 to 2:40 p.m.)</p> <p>2 THE VIDEOGRAPHER: We are back on the</p> <p>3 record. The time is 2:40 p.m. We are off of the</p> <p>4 record at 2:40 p.m. And this concludes today's</p> <p>5 testimony given by Donald Neufeld. Total number</p> <p>6 of units used is four and will be retained by</p> <p>7 Veritext Legal Solutions.</p> <p>8 (Whereupon, at 2:40 p.m., the above</p> <p>9 proceedings was adjourned.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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REPORTER'S CERTIFICATE

I, DONNA M. LEWIS, RPR, Certified
Shorthand Reporter, certify;
That the foregoing proceedings were
taken before me at the time and place therein set
forth, at which time the witness, Donald Neufeld,
was put under oath by me;

That the testimony of the witness, the
questions propounded and all objections and
statements made at the time of the examination
were recorded stenographically by me and were
thereafter transcribed;

I declare that I am not of counsel to
any of the parties, nor in any way interested in
the outcome of this action.

As witness, my hand and notary seal this
19th day of October, 2017.

Donna M. Lewis, RPR

Notary Public

My Commission expires:

March 14, 2018

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